



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

**W.P(MD) No. 1446 of 2013 and
M.P(MD) .Nos.1 and 2 of 2013**

S. Thangaraj

:Petitioner

.vs.

1. The Commissioner,
Department of Dairy and Development and Milk
Production,
Madavaram, Chennai.

2.The Tamil Nadu Dairy and Development Corporation Ltd.,
rep. By its Managing Director,
Chennai - 31.

3.The District Collector (Special Officer),
Madurai District,
Madurai.

4.The General Manager,
Madurai District Co-operative Milk Products
Union Ltd.,
Madurai -20.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 4th respondent in Na.Ka.No.3430/Pa.Ku.2/2012, dated 02.11.2012 and quash the same as illegal and arbitrary without any jurisdiction and against the constitutional provisions and consequently directing the 4th respondent to pass appropriate orders by raising the age of retirement of the Writ Petitioner from 58 to 60 with on other consequential service benefits.

For Petitioner : Mr. R. Aravindan

For R1 to R3 : Mr.P. Thilak kumar
Government Pleader

For R4 : No appearance



O R D E R

This Writ Petition has been filed to quash the impugned order passed by the 4th respondent in Na.Ka.No.3430/Pa.Ku.2/2012, dated 02.11.2012 and consequently direct the 4th respondent to pass appropriate orders by raising the age of retirement of the Writ Petitioner from 58 to 60 with on other consequential service benefits.

2. The petitioner was appointed as daily wage Office Assistant in the Tamil Nadu Dairy Development Corporation Limited, the 2nd respondent herein. On 10.04.1978, the petitioner was paid time scale of pay after completion of 5 years of service, then transferred to Madurai District Cooperative Milk Products Union Limited, by 4th respondent herein vide order dated 28.12.1982 with effect from 01.01.1983. The petitioner has attained superannuation on attaining 58 years of age on 31.01.2013. The 4th respondent has issued notice of superannuation on 02.11.2012 specifying the retirement age on attaining 58 years. The petitioner is claiming to extend the age of superannuation from 58 to 60 by relying on G.O. Ms. No. 212 Government of Tamilnadu (Department of Cooperation Food and Consumer Protection), dated 04.07.1995 and also the Circular No. 25320/ 95/D2, dated 16.10.1992 and submitted a representation, dated 14.04.2012. The petitioner claims that the Tamilnadu Cooperative Milk Producers Federation Limited, which is similarly placed Cooperative Society has increased the age vide order dated 09.05.2008. Several representations were submitted working in various Cooperative Milk Federations and the Government has issued in G.O.(D) No. 69 AHD & F (MP II) Department, dated 27.02.2008 to constitute committee to frame additional special rules to enhance the retirement age from 58 to 60. The 4th respondent without any reference to its own letter, dated 07.08.2012 has issued the impugned notice, dated 02.11.2012 thereby intimating the age of retirement as 58 years, hence, the present Writ Petition is filed.

3. The respondents have submitted that the issue is already considered in W.A. (MD) Nos. 460 to 462 of 2011 vide order dated 24.07.2013 and the claim of the writ petitioners were rejected. The relevant portion of the order is culled out hereunder:

"3. Learned Counsel for the respondents submitted that as per by-laws of the second respondent, the age of retirement of persons worked in the cadre of Office Assistant is only 58 years and the appellants who reached the age of 58 are bound to be retired. Learned Counsel for the respondents further submitted that the by-law was amended increasing the age of superannuation as 60 years with effect from 01.04.2013 and in the said



by-law, no where it is stated that the persons who have already retired at the age of 58 years can also claim the age of retirement as 60 years

4. In such view of the matter, particularly with regard to the age of retirement was 58 years, when the appellants have reached the age of superannuation, the appellants are not entitled to claim to continue in service up to the age of 60 years. The by-law which was amended giving effect from 01.04.2013 cannot be applied to the appellants as they have reached the age of superannuation before the amendment of by-laws."

4. Heard Mr. R.Aravindhan, the learned counsel appearing for the petitioner and Mr. P. Thilakkumar, the Learned Government Pleader appearing for the respondents 1 to 3.

5. It is seen in the present case the petitioner has attained the age of superannuation on 31.01.2013 and the by-law was amended with effect from 01.04.2013. Therefore, as held the writ appeal W.A. (MD) Nos. 460 to 462 of 2011 vide order, dated 24.07.2013 the petitioner has attained the age of superannuation prior to the amendment and he is not entitled to the claim of increasing the retirement age from 58 to 60.

6. Accordingly, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

trp

To

1. The Commissioner,
Department of Dairy and Development and Milk
Production,
Madavaram, Chennai.

2.The Tamil Nadu Dairy and Development Corporation Ltd.,
rep. By its Managing Director,
Chennai - 31.



3.The District Collector (Special Officer),
Madurai District,
Madurai.

4.The General Manager,
Madurai District Co-operative Milk Products
Union Ltd.,
Madurai -20.

**W.P(MD) No. 1446 of 2013 and
M.P(MD) .Nos.1 and 2 of 2013
01.12.2021**

RD(16.12.2021) 4P 5C