



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.7954 of 2021

and

W.M.P (MD)Nos.6063, 6066 & 6065 of 2021

WEB COPY

K.M.Uma Maheswari

... Petitioner

vs.

1.The Commissioner,

Milk Producers and Dairy Development,

Nandhanam,

Chennai - 600 035.

2.The Managing Director,

Milk Production and Dairy Development,

Madhavaram,

Chennai - 600 051.

3.The General Manager,

Madurai District Co-operative Milk Producers Limited,

Sathamangalam,

Madurai - 625 020.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned office Note recorded in N.F.6396/Pa.Ku/4/2017, dated 10.06.2019 passed by the third respondent and the above adverse order referred in Ref.No.4392/IR/2018, dated 23.09.2019 of the third respondent under intimation to the second respondent and quash the same as illegal and consequently direct the respondents to restore back all the monetary statutory benefits entitlements such as annual increments, dearness allowances, surrender leave and other benefits and also to get back the amount deducted in the name of the excess pay from the pay of the petitioner effected from June 2019.

For Petitioner

: Mr.S.Ramasamy

For R - 1

: Mr.K.S.Selva Ganesan

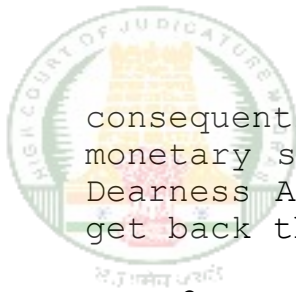
Government Advocate

For RR 2 & 3

: Mr.Mareesh Kumar

ORDER

The petitioner has filed the present Writ Petition, to quash the impugned office Note, dated 10.06.2019, passed by the third respondent and the above adverse order, dated 23.09.2019 of the third respondent under intimation to the second respondent and



consequently, to direct the respondents to restore back all the monetary statutory benefits entitlement, such as annual increments, Dearness Allowances, Surrender Leave and other benefits and also to get back the amount deducted from June 2019.

2. According to the petitioner, her name was sponsored before the respondents by the Employment Exchange for the post of Deputy Manager (Quality Control). After interview and verification of the documents, the petitioner was appointed as a Deputy Manager (Quality Control) and the petitioner joined duty on 14.02.2014. After completion of two years of probation, the petitioner was promoted as a Manager (Quality Control) on 21.11.2017. While so, the third respondent, by proceedings, dated 27.11.2018, issued show-cause notice as to why the disciplinary proceeding should not be taken against the petitioner, as she did not possess the required qualification at the time of appointment. The petitioner submitted her explanation on 17.12.2018. According to the petitioner, the third respondent, by impugned note and letter addressed to the second respondent, ordered stoppage of annual increments, Dearness Allowances and other statutory leaves and started recovering from her salary in the name of excess pay. Challenging the same, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that the respondents have stopped annual increments, Dearness Allowances and other statutory leaves and also started recovery, without notice to the petitioner. The impugned Note, letter and stoppage of increment, Dearness Allowance and recovery are arbitrary, illegal and prayed for allowing the Writ Petition.

4. Heard the learned counsel appearing on either side and perused the entire materials available on record.

5. From the materials available on record, it is seen that the petitioner was appointed as a Deputy Manager (Quality Control), after being sponsored by the Employment Exchange and interview conducted by the respondents. According to the petitioner, at the time of interview, all the certificates were verified and then only, she was appointed as Deputy Manager (Quality Control) in the Year 2014. After probation of two years, she was promoted as Manager (Quality Control) on 21.11.2017. While so, the third respondent issued show-cause notice, dated 27.11.2018, as to why the disciplinary action should not be taken against the petitioner for not possessing requisite qualification at the time of appointment. The petitioner submitted her explanation on 17.12.2018. No material was produced before this Court to show that any further proceeding was initiated based on the show-cause notice. As rightly pointed out by the learned counsel appearing for the petitioner, the respondents have not granted annual increments, Dearness Allowances and other benefits to the petitioner and without any opportunity and without



the impugned undersigned Note and the internal correspondence between the third respondent and the second respondent, is arbitrary, invalid and illegal.

6.For the above reasons, the impugned office Note, dated 10.06.2019, passed by the third respondent and the above adverse order, dated 23.09.2019 passed by the third respondent under intimation to the second respondent are liable to be set aside and the same are set aside. The respondents are directed to pay all the monetary statutory benefits entitlement, such as annual increments, Dearness Allowances, Surrender Leave and other benefits to the petitioner and also to refund the amount, if any amount is recovered from the salary of the petitioner, from June 2019, within a period of eight weeks from the date of receipt of a copy of this order.

7.With the above directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Commissioner,
Milk Producers and Diary Development,
Nandhanam,
Chennai - 600 035.
- 2.The Managing Director,
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Chennai - 600 051.
- 3.The General Manager,
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Sathamangalam,
Madurai - 625 020.

+1 CC to M/s.SPL GP (SR-20747[F] dated 30/06/2021)

W.P (MD) No. 7954 of 2021
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