



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.10157 of 2021

and WMP(MD)Nos.7877 & 7878 of 2021

WEB COPY

S.Krishnan

... Petitioner

vs.

1.The Commissioner,
Milk Procurement and Diary Development
Department,
Madhavaram Milk Colony,
Chennai.

2.The Managing Director,
Tamil Nadu Co-operative Milk
Producers Federation Limited (TCMPF),
Aavin Illam,
No.3, Chamiers Road,
Nandhanam,
Chennai - 35.

3.The General Manager,
Madurai District Co-operative Milk
Producers Union Ltd.,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in Ref.No.4056/PERS.I.R.2/2021-1, dated 04.05.2021 and quash the same.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.K.S.Selvaganesan,
Government Advocate.

ORDER

The petitioner has filed this Writ Petition challenging the order passed by the 2nd respondent in his proceedings in Ref.No.4056/PERS.I.R.2/2021-1, dated 04.05.2021

2. According to the petitioner, he was appointed as Electrician on 25.02.1993 in the third respondent office. Thereafter, he was promoted as Deputy Manager (Engineering) in the year 2009 and also promoted as Manager (Engineering) in the year 2016. On 21.02.2020,



he was promoted as Assistant General Manager (Engineering) and posted at Salem. Thereafter, he was transferred to Madurai on 05.03.2020. While so, the second respondent passed on order of suspension on 04.05.2021, referring to the Inspection Committee Report, dated 28.03.2021. The Enquiry Officer sent a notice calling upon the petitioner to participate in the enquiry on 17.05.2021, at about 11.00 a.m. Therefore, he appeared before the Enquiry Officer on 17.05.2021 and produced all the records before him and also verified the records. Thereafter, there is no progress. Hence, the petitioner has come out with the present Writ Petition.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

4. From the materials available on record, it is seen that the petitioner was suspended from service with effect from 04.05.2021 in contemplation of domestic enquiry. The learned counsel appearing for the petitioner made various statements on merits as to how the impugned order is invalid and illegal. The said submissions cannot be considered in the present Writ Petition. It is a well settled legal position that the employer has power to suspend an employee in contemplation of disciplinary proceedings. The employer has also power to review the order of suspension or continue the suspension. In the judgment of Hon'ble Apex Court in **Ajay Kumar Choudhary Vs. Union of India** reported in **2015 (7) SCC 291**, it was held that when an order of suspension is passed in contemplation of disciplinary proceedings, such an order has to be revoked, if charge memo is not served on the delinquent employee within three months from the date of suspension. In the present case, the impugned order of suspension is dated 04.05.2021 and the three months period as contemplated by the Hon'ble Apex Court is not yet over. Therefore, the present Writ Petition is premature and devoid of merits.

5. For the above reasons, this Writ Petition is dismissed. It is open to the petitioner to take appropriate proceedings for revocation of suspension, if suspension is protracted beyond three months without serving charge memo. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

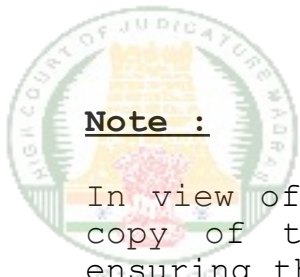
Assistant Registrar (AD II)

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/ /2021

Sub Assistant Registrar(CS)

vsm



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 Procurement and Diary Development
Department,
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Chennai.

2.The Managing Director,
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Producers Federation Limited (TEMPF),
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No.3, Chamiers Road,
Nandhanam,
Chennai - 35.

3.The General Manager,
Madurai District Co-operative Milk
Producers Union Ltd.,
Madurai.

+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-21795[F] dated 09/07/2021)

+1 CC to M/s.SPL GP (SR-21934[F] dated 09/07/2021)

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MGJ(20.07.2021) 3P 6C