



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 3884 of 2022

S.Sairam

...Petitioner

VS-

1. Deputy Registrar,
Milk Co-operative Society,
Poigai, Vellore-632 114.

2. President,
TPD 534, Kattrampakkam Milk Federation Co-operative Society,
Kattrampakkam Village and Post,
Shollinghur Taluk,
Ranipet District-632 501.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus or any other appropriate writ, order or direction to direct the 2nd respondent to consider the representation dated 06.01.2022.

For Petitioner : Mr. V.Raghavachari

For Respondents: Mr. S.Prabhakaran,
Government Advocate

O R D E R

Heard Mr. V.Raghavachari, Learned Counsel for the Petitioner and Mr.S.Prabhakaran, Learned Government Advocate appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who claims to have been in the employment of the Second Respondent from 13.01.2016, had not attended duty for two years and had made a representation dated 06.01.2022 to rejoin duty which is said to have been forwarded by the First Respondent to the Second Respondent. The Writ Petition has been filed for directing the Second Respondent to consider the said representation.



3. In the affidavit filed in support of the Writ Petition, it has been stated that the Petitioner had taken sabbatical and had undertaken diploma course during the said period. However, there is nothing available from the materials placed on record to ascertain whether the Petitioner had contacted the Second Respondent about his employment status before making such representation. In the absence of the Petitioner having ascertained as to what further action had been taken in the interregnum by the Second Respondent, it would not be possible to require the Second Respondent to consider the representation made by the Petitioner to rejoin duty after his long absence. It must be recapitulated here that it has been held by the Hon'ble Supreme Court of India in Director of settlements -vs- M.R. Apparao [(2002) 4 SCC 638] as follows:-

"17.One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could be enforced by issuance of a writ of mandamus. "Mandamus" means a command. It differs from the writs of prohibition or certiorari in its demand for some activity on the part of the body or person to whom it is addressed. Mandamus is a command issued to direct any person, corporation, inferior courts or Government, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. A mandamus is available against any public authority including administrative and local bodies, and it would lie to any person who is under a duty imposed by a statute or by the common law to do a particular act. In order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition (Kalyan Singh -vs- State of U.P. [AIR 1962 SC 1183]). The duty that may be enjoined by mandamus may be one imposed by the Constitution, a statute, common law or by rules or orders having the force of law...."

In view of this incontrovertible legal position coupled with the facts of this case as borne out from the record, there is no justification to entertain this pre-mature Writ Petition. It is added by way of clarification here that the Petitioner is not precluded from working out his rights on ascertaining the



required details of his employment status with the Second Respondent for appropriate relief, if he is otherwise entitled to the same, in accordance with law.

4. In the result, the Writ Petition is dismissed with the aforesaid observations. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

Maya/gd

To

1. The Deputy Registrar,
Milk Co-operative Society,
Poigai, Vellore-632 114.
2. The President,
TPD 534,
Kattrampakkam Milk Federation Co-operative Society,
Kattrampakkam Village and Post,
Shollinghur Taluk,
Ranipet District-632 501.

+1cc to the Government Pleader, S.R.No.13019

W.P.No.3884 of 2022

PL(CO)
RGA(13/04/2022)