



W.P.No.7472 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.7472 of 2021

Gunasekaran

... Petitioner

Vs.

The Managing Director
Tamil Nadu State Marketing Corporation Ltd.,
C.M.D.A. Tower – II, 4th floor,
Gandhi Irwin Bridge Road
Egmore, Chennai 600 008.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondent to regularise the break-in-service period of the petitioner viz., 846 days of break period as a duty period by granting continuity of service, Notional Promotion, Backwages along with Gratuity at the admissible rate of interest thereby consequentially sanction and disburse above all consequential monetary and other service benefits to the petitioner based on his representation dated 14.05.2020.



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For Petitioner : Mr. Ravichandran Sundaresan
For Respondent : Mr.K.Sathish Kumar
Standing Counsel

ORDER

The petitioner has filed this petition seeking direction to the respondent to regularise the break-in-service period of the petitioner viz., 846 days of break period as a duty period by granting continuity of service, Notional Promotion, Backwages along with Gratuity at the admissible rate of interest thereby consequentially sanction and disburse above all consequential monetary and other service benefits to the petitioner based on his representation dated 14.05.2020.

2. The case of the petitioner is that the petitioner viz., M.Gunasekaran was appointed on 31.12.1997 as Manager Commercial in the respondent's Tamil Nadu State Marketing Corporation Ltd., Thereafter he gave a representation dated 23.05.2002 and requested the respondent to promote him to the post of Senior Manager. On 05.07.2004 the petitioner was placed under suspension on the ground that he has not effectively controlled the functioning of bars. Then the petitioner was served with the order dated



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26.01.2005 revoking the order of suspension without prejudice to the disciplinary proceedings pending and he was reverted as Assistant Manager.

This Court by order dated 21.02.2006 in W.P.No.3573 of 2005 set aside the order of suspension dated 05.07.2004. Later the respondent filed to Review the order passed in W.P.No.35713 of 2005 dated 21.02.2006 and this Court by order dated 28.04.2006 dismissed the Review Petition in R.P.No.31 of 2006. The respondent preferred W.A.No.452 of 2007 against the order passed in W.P.No.35713 of 2005. This Court by order dated 20.03.2007 rejected the interim stay petition in M.P.No.3 of 2007 and subsequently on 26.03.2009 dismissed the W.A.No.452 of 2007. Thereafter, on 28.03.2013, the resignation submitted by the petitioner was accepted by respondent and was relieved from service and by proceedings dated 18.09.2013 the respondent dropped the charges. The suspension period of 101 days out of 213 days from 05.07.2004 to 02.02.2005 has been regularised as earn leave, the remaining 112 days has been regularised as leave on loss of pay further the period of 846 days from 17.05.2005 to 09.09.2007 was not regularised till date. The respondent re-instated the petitioner into service on 10.09.2007 and wrongly treated the 846 days from 17.05.2005 to 09.09.2007 as unauthorised absence.



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3. It is further averred that after the order of suspension and till the date of reinstatement from 17.05.2005 to 09.09.2007 is only a break in service period. Since duty has not been assigned to the petitioner and during that period the petitioner made several representations. Hence, there is no question of unauthorised absence arose which is purely a break in service period occurred due to the in action on the part of the respondent by not granting to the petitioner the post of District Manager. On various date viz., 21.06.2018, 13.12.2019, 20.02.2020, 06.03.2020 lastly on 14.05.2020 the petitioner made representation, since the representation of the petitioner has not been considered by the respondent to regularise the 846 days break in service period as duty period, the petitioner has come forward with the present writ petition.

4. Though very many grounds have been raised in this Writ Petition, learned counsel for the petitioner submitted that, it would suffice, if this Court issues direction to the respondent to consider the petitioner's representation dated 14.05.2020 and pass appropriate orders on merits, within a particular time frame to be fixed by this Court.



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5. The learned Standing Counsel appearing for the respondent submitted that he has no objection for the said order being passed by this Court.

6. Heard the learned counsel on either side and perused the materials available on record.

7. Taking into consideration the factual aspects of the matter, this Court without going into the merits of the case, directs the respondent to consider the petitioner's representation dated 14.05.2020 and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

8. This Writ Petition is disposed of with the above observation and direction. No costs.

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Index : Yes/No
Speaking Order : Yes/No
dpq



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To:

- 1.The Registrar of Co-operative Societies,
NVN.Somu Maaligai,
No.170, EVR Periyar Salai,
Kilpauk,
Chennai – 600 010.
- 2.The Joint Registrar Cum Managing Director,
Dharmapuri District Central Co-op. Bank Ltd.,
No.10/H, Nethaji Bye Pass Road,
Post Box No.16,
Dharmapuri – 636 701.
- 3.The Deputy Registrar of Co-operative Societies,
Dharmapuri – 636 705.

J. SATHYA NARAYANA PRASAD, J.



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