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W.P.No.12388 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.12388 of 2019

N.Uma Maheswara Rao

.. Petitioner

VS

1.The State of Tamil Nadu

Rep. By its Principal Secretary to Government,
Animal Husbandry, Dairy Development,
Fisheries Department, Secretariat,
Fort St.George, Chennai – 09.

2.The Director

Milk Production and Dairy Development Department
cum The Managing Director,
the TCMPF Ltd (Aavin)
Chamiers Road, Nandanam,
Chennai – 35.

3.The Assistant Director,
(Milk Cooperative Audit),
Deputation at AAVIN,
Vellore – 9.

4.The General Manager,
The VTDCMPU Ltd.,
Sathuvachary,
Vellore – 9.

5.The Deputy Registrar (Dairying)
Samathuvapuram, POGAI
Vellore.

6.Dr.V.Kothanda Raman

7.S.G.Sri Hari Reddy

.. Respondents



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Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the official respondents to consider the representation submitted by the petitioner dated 11.06.2017 and to cancel the promotion given in favour of 7th respondent to the post of General Manager (Dairying) at the instance of 6th respondent by illegal means and consequently direct the official respondents to consider the petitioner for promotion to the post of General Manager (Dairying), within a time frame to be fixed by this Court.

For Petitioner : Mr.S.Nedunchezhiyan
For Respondents : Mr.T.K.Saravanan
Government Advocate for R1
Mr.R.Bala Ramesh for R4
No appearance for R2, R3

ORDER

Writ petition has been filed in the nature of mandamus seeking a direction, particularly against the fourth respondent, to consider the representation given by the petitioner dated 11.06.2017 and to consequently interfere with the promotion given to the seventh respondent to the post of General Manager (Dairying) and direct the said respondent to consider the petitioner for such promotion to the said post.



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2. Admittedly, the petitioner is junior in service to the seventh respondent. The seventh respondent, however, for reasons best known during the course of his service, had given a letter of resignation on 06.06.2011. If this letter of resignation had been accepted, it would have given a small window for the petitioner to be promoted further. That letter of resignation was however kept pending by the respondents and he finally withdrew it on 08.12.2013.

3. The grievance of learned counsel for the petitioner is that the letter of resignation was withdrawn after a period of one and half years. It is stated that keeping that letter pending for over one and half years was not proper on the part of the respondents and simultaneously permitting him to withdraw it after a period of one and half years was also not proper. After he had withdrawn the letter of resignation, there was some disciplinary proceedings which had been initiated against the seventh respondent and a punishment of an increment cut of one year without cumulative effect had been imposed on the seventh respondent. This was only a minor penalty, which has been imposed.



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4. Thereafter, the fourth respondent had restored the seniority of the seventh respondent and promoted him back as General Manager (Dairying). The further grievance of the petitioner is that the petitioner should have been considered for such promotion. It is however contended that the second respondent would be the apt authority to examine any representation given by the petitioner herein, particularly the grievances raised against the promotion granted to the seventh respondent.

5. All these aspects may be raised by the petitioner before the second respondent and let the second respondent pass an order after giving an opportunity to all concerned. The issue of giving letter of resignation, withdrawing the letter of resignation and suffering a minor penalty by way of cut of increment without cumulative effect for one year, may all be placed by the petitioner before the second respondent and the second respondent may take a decision taking into consideration the service records of the petitioner and the seventh respondent.

6. The matter has to be resolved only by the second respondent and it would be an exercise in futility if this Court were to examine these issues, particularly on the basis of the affidavits



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which had been filed and not on the basis of service records of the petitioner and the seventh respondent. If the petitioner gives such a representation, it has to be categorized as revision under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983. Then the second respondent may proceed further in the manner known to law, issue notice to all the parties concerned and thereafter endeavour to complete the enquiry within a period of sixteen weeks from the date of receipt of a copy of the aforementioned representation from the petitioner. No further orders are required.

7. Writ petition stands disposed of. No costs.

05.07.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To:

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C.V.KARTHIKEYAN,J.

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