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W.P.Nos.19464 of 2023, 24980, 24983, 24984 and 24986 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.Nos.19464 of 2023, 24980 24983, 24984 and 24986 of 2022 &

WMP.Nos.18725 & 19825 of 2023

K.S.Murali Prasad

... Petitioner in all WPs

Vs

1. The Managing Director,

Tamilnadu Co-operative Milk Producers' Federation Limited,

Aavinillam, No.3, Chamiers Road,

Nandanam, Chennai – 600 035.

... 1st respondent in WP.No.
19464 of 2023 &
respondent in other WPs.

2. S.M.Shamsudeen Ibrahim,

Joint Commissioner of Labour [Rtd.,]

Enquiry Officer, 18/10, Pallivasal Lane,

Kzimar Street, Madurai – 625 001.

... 2nd Respondent in WP.
No.19464 of 2023

Prayer in W.P.No.19464 of 2023 :- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondents to convert/ construe the disciplinary proceedings initiated against the petitioner in proceedings Ref.No.22761/Pers.IR.IR.2/2018



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dated 16.12.2022 under minor penalty proceedings under Rule 17[a] of the Tamil Nadu Civil Services [Discipline and Appeal] Rules instead of under Rule 17[b] of the Tamil Nadu Civil Services [Discipline and Appeal] Rules and to include name of the petitioner in the panel for promotion to the post of Assistant Inspector General of Registration for the year 2022-2023 and to promote him as such notwithstanding without reference to the afore said disciplinary proceedings, if he is otherwise fully qualified and eligible for the same.

Prayer in W.P.Nos.24980, 24983, and 24984 of 2022 :- Writ Petitions filed under the Article 226 of Constitution of India, to ensure the disciplinary proceedings initiated vide charge memo No.Na.Ka.No.13215/pa.ku.tho.22/2019 dated 26.12.2019, No.4756/Pers.IR.2/2019 dated 01.07.2020, No.10624/Pers.IR2/2019-1, dated 12.02.2020 respectively issued by the respondent herein are finalized and final Order as passed thereof within a limited time frame.

Prayer in W.P.No.24986 of 2022 :- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondent to grant annual increments and to revise pay accordingly with effect from 12.04.2019 and disburse the monetary arrears within a limited time frame to the petitioner herein as deem fit by this Court.

For Petitioner : Mr.M.Ravi in all WPs



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For Respondents : Mr.I.John Arockiadass – R1
in W.P.No.19464 of 2023 and for
respondent in other WPs.

Mr.P.Baladhandayutham
Special Government Pleader – R2 in
W.P.No.19464 of 2023

ORDER

The Writ Petition in W.P.No.19464 of 2023 has been filed to direct the respondents to convert/ construe the disciplinary proceedings initiated against the petitioner in proceedings Ref.No.22761/Pers.IR.IR. 2/2018 dated 16.12.2022 under minor penalty proceedings under Rule 17[a] of the Tamil Nadu Civil Services [Discipline and Appeal] Rules instead of under Rule 17[b] of the Tamil Nadu Civil Services [Discipline and Appeal] Rules and to include name of the petitioner in the panel for promotion to the post of Assistant Inspector General of Registration for the year 2022-2023 and to promote him as such notwithstanding without reference to the afore said disciplinary proceedings, if he is otherwise fully qualified and eligible for the same.



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2. The Writ Petitions in W.P.Nos.24983, 24984 and 24875 of 2022 have been filed to direct the respondent to finalize the disciplinary proceedings initiated against the petitioner within the time frame fixed by this Court. The Writ Petition in W.P.No.24986 of 2022 has been filed to grant annual increments and to revise pay accordingly with effect from 12.04.2019 and disburse the monetary arrears to the petitioner within the limited time frame fixed by this Court.

3. During the pendency of these Writ Petitions, WMP.No.19825 of 2023 has been filed for amendment seeking a direction to the respondents to defer the disciplinary proceedings till the criminal case trial is completed.

4. A perusal of records reveals that charges have been framed against the writ petitioner under Tamil Nadu Civil Services [Discipline and Appeal] Rules. The writ petitioner was Assistant General Manager and he was incharge for Vellore. The allegation against the petitioner is that he demanded undue advantage from the employees for processing



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for pay fixation and its arrears and also for sanctioning the amount.

Similarly, Rs.11 lakhs unaccounted money is also recovered from the official vehicle Toyota Innova bearing registration No.TN 23 BF 2603.

The other charge against the petitioner is that on physical search, a sum of Rs.1 lakh was seized from the garden area situated in front of main building of his office, which is also not explained.

5. It is stated by the learned counsel for the respondent that the writ petitioner appeared for enquiry proceedings on 15.06.2023 and sought for certain documents, which were also furnished to him and the enquiry has been posted for further proceedings. This fact has not been disputed by the Writ Petitioner.

6. Originally, the writ petitioner filed the Writ Petition in W.P.No.19464 of 2023 to convert the major charge of 17[b] of the Tamil Nadu Civil Services [Discipline and Appeal] Rules to minor charge of 17[a] of of the Tamil Nadu Civil Services [Discipline and Appeal] Rules. In the opinion of this Court, per se is not maintainable. It is for the



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appointment authority and enquiry officer to find out whether charges framed has been proved as per the procedure. Therefore, the Court cannot alter the charges. Now the amendment has been sought to defer the department proceedings till the trial in the criminal case is completed. It is well settled that there is no bar for initiation of departmental proceedings when the criminal case is pending. On a perusal of charges framed against the petitioner, this Court is of the view that apart from the criminal case, charges in the departmental proceedings can be enquired based on the available evidence in the enquiry. In such view of the matter, I do not find any merits in W.P.No.19464 of 2023.

7. In W.P.No.19464 of 2023, the writ petitioner has filed a petition in WMP.No.19825 of 2023 seeking to amend the relief to defer the disciplinary proceedings initiated against the petitioner pending outcome of the criminal case. Since, there is no bar in conducting the departmental proceedings, simultaneously, the departmental proceedings cannot be deferred and there is no merits in this petition.



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8. As far as the relief sought in the Writ Petition in W.P.No. 24986 of 2022 is concerned, the same is subject to the result of the Department Proceedings.

9. As far as the Writ Petitions in W.P.Nos.24980, 24983 & 24984 of 2022 are concerned, the respondent is directed to conclude the disciplinary proceedings initiated against the petitioner as per law giving opportunity to the petitioner within a period of four months from the date of receipt of a copy of this Order.

10. Accordingly, the Writ Petitions in W.P.Nos.19464 of 2023 and 24986 of 2022 are dismissed and W.M.P.No.91825 of 2023 is dismissed. The Writ Petitions in W.P.Nos.24980, 24983 & 24984 of 2022 are disposed of. As far as WMP.No.19825 of 2023 is concerned, the petition is dismissed as the same is not maintainable. Consequently, connected miscellaneous petition is closed. No costs.

10.07.2023



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Index:Yes/No

Neutral Citation : Yes/No

vrc

To,

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N.SATHISH KUMAR, J.

VTC

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