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W.P.No.28524 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.28524 of 2023
and W.M.P.No.28080 of 2023

K.Sudhakar

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
(Department of Animal Husbandry, Dairying and Fisheries)
Fort St. George,
Chennai – 600 009.
- 2.The Commissioner,
Milk Production & Dairy Development,
Aavin Illam, No.3A,
Nandhanam, Chennai – 600 035.
- 3.The District Collector,
Villupuram District,
Villupuram.
- 4.The General Manager,
Villupuram & Cuddalore
District Milk Producers Cooperative Union Ltd.,
Vazhuthareddy, Kandamanadi, (S.O)
Villupuram & District.
- 5.The Deputy Registrar (Dairying)
Villupuram Collectorate,
Villupuram & District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned order passed by the 4th respondent in Na.Ka.No.5915/PA2/2002 dated 31.10.2022 and to quash the same as illegal, inappropriate, arbitrary and unconstitutional and consequently direct the 4th respondent to pass orders to appoint the petitioner in any suitable post for his present educational educational qualification in Villupuram District.

For Petitioner : Mr.T.Elumalai

For Respondents : Mrs.V.Yamuna Devi
Special Government Pleader for R1 and R3
Mr.I.John Arockiadas
Standing Counsel for R2, R4 and R5

ORDER

The prayer sought for in this Writ Petition is to quash the proceedings dated 31.10.2022 passed by the fourth respondent and to direct the fourth respondent to pass orders to appoint the petitioner in any suitable post for his present educational educational qualification in Villupuram District.

2.The petitioner's father Karunakaran, while in employment as a Factory Assistant in Villupuram & Cuddalore District Milk Producers Cooperative Union Ltd., Vazhuthareddy, Villupuram, died on 08.04.2010. On 07.02.2011, within one year from the death of his father, the petitioner had made an



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application to the 3rd respondent herein/District Collector, Villupuram, seeking for compassionate appointment. The acknowledgement for such an application dated 07.02.2011 has also been produced before this Court. This representation was followed by another representation on 17.03.2015 to the 2nd respondent also. Since the representations were not considered in time, he had filed a writ petition before this Court in W.P.No.22137 of 2022 and by an order dated 24.08.2022, this Court had directed the Commissioner/Registrar, Milk Dairying, Madhavaram, Chennai, to consider the petitioner's representation, on its own merits, within a period of twelve weeks from the date of receipt of copy of that order. In this background, the impugned order has been passed, rejecting the petitioner's application stating that as per the special by-laws governing the 4th respondent, the minimum educational qualification required for consideration of compassionate appointment is pass in 12th or ITI.

3.The special by-laws relating to the service condition of the employees of all District Milk Producers Union came into effect from 01.04.2013. It is not in dispute that the petitioner had originally made an application to the District Collector on 07.02.2011 itself. Apparently, such an application has been made to a wrong authority. However, the fact that such an application was given, is not in dispute.



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4. When the application was not considered in time, he had sent another representation on 17.03.2015 and has also approached the Court later ventilating his grievances. This Court had directed the 2nd respondent herein to consider his representation within a time limit. Though, the petitioner had approached an authority who does not have jurisdiction to consider the representation, this Court has taken note of the fact that he has made an application seeking for compassionate appointment and that his date of making an application can be taken as 07.02.2011. However, on 17.03.2015, he had also sent a representation to the 2nd respondent herein. If his original date of application is taken as 07.02.2011, the old by-laws of the Society would apply.

5. The learned counsel for the petitioner submitted that under the old by-laws i.e., prior to 01.04.2014, the minimum educational qualification required for grant of compassionate appointment is a pass 8th standard. The learned counsel for the 4th respondent also ratified this position. If that be so, the petitioner, who had passed 8th standard as on 07.02.2011, had met the minimum educational qualification required for consideration for compassionate appointment. As such the respondents can be directed to consider his application on basis of his qualification as on 07.02.2011.



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5. In the light of the observations and findings, the impugned order dated 31.10.2022 is quashed. Subsequently, there shall be a direction to the 2nd respondent herein to reconsider the writ petitioner's application dated 07.02.2011 and by applying the old by-laws prescribing a pass in 8th standard as a minimum qualification for consideration, shall pass appropriate orders, for grant of appointment on compassionate ground to the petitioner to any post for which he may be eligible. Such an order shall be passed, atleast within a period of twelve weeks from the date of receipt of a copy of this order.

6. This writ petition stands allowed with the above directions. No Costs. Consequently, connected miscellaneous petition is closed.

07.11.2023

Index: Yes
Speaking order
Neutral Citation: Yes
ssr

To

1. The Principal Secretary to Government,
(Department of Animal Husbandry, Dairying and Fisheries)
Fort St. George,
Chennai – 600 009.



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M.S.RAMESH,J.

SSR

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