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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.1896 of 2017

S.Menaka

... Petitioner

Vs.

1.The Deputy Milk Commissioner,
(Co-operatives),
Office of the Commissioner for Milk Products
and Dairy Development,
Madhavaram, Chennai.

2.The President,
V.R.P.T.176, Sirumangalam Milk
Producers Co-op. Society,
Sirumangalam,
Kallakurichi Taluk,
Villupuram District – 606 204.

3.R.Muthusamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the 2nd respondent dated 18.03.2016 and quash the same and consequently direct the 2nd respondent to promote the petitioner as Secretary in the 2nd respondent Society.



For Petitioner	: Mr.S.Sairaman
For R1	: Mr.T.M.Rajangam Government Advocate
For R2	: Mr.S.Ravi Kumar
For R3	: No Appearance

ORDER

The writ petition has been filed challenging the impugned order dated 18.03.2016 passed by the 2nd respondent and consequently direct the 2nd respondent to promote the petitioner as Secretary in the 2nd respondent Society.

2. The case of the petitioner is that she was appointed as a Measurer in the 2nd respondent / Society on 01.04.2009 as a daily wage worker. Till date she was not regularised even after submitting several reminders to the Management. The petitioner had worked as Secretary from 29.08.2009 to 30.04.2011.



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3. The grievance of the petitioner is that she is the senior in service compared to the 3rd respondent and also graduate with co-operative training. However, the Management has chosen the 3rd respondent for the post of secretary and the 3rd respondent has not even passed 12th standard. Therefore, the petitioner sent several representation to the Management for regularising her services and accord her to the post of Secretary in recognising her service qualification and seniority, but the 2nd respondent / Management has not considered the same. Hence, the petitioner has sent a representation to the Deputy Milk Commissioner (Diary), Chennai / 1st respondent, who is the revision authority. The said representation was considered and disposed of by the 1st respondent with a direction to the petitioner to submit a fresh representation and directed the Management to dispose of the representation according to law within two months time period.

4. The learned counsel for the petitioner states that as per the directions of the 1st respondent, the petitioner also submitted a fresh representation before the 2nd respondent on 06.02.2016. Thereafter, the 2nd respondent has rejected the claim of the petitioner and passed an order on 18.03.2016 and the



said order came to be challenged before this Court in the present writ petition.

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5. The learned counsel appearing on behalf of the 2nd respondent / Society submitted that the revision filed by the petitioner was considered by the Deputy Milk Commissioner (Diary), Chennai on 27.01.2016 and accordingly, directed the petitioner to submit a fresh representation and the 2nd respondent has considered the same and passed the order stating that the petitioner was not acting with accordance of the duty and she has been the reason for the reduction in the members in the milk vending. Therefore, the petitioner cannot claim the said post, in view of the aforesaid reasons and financial position of the Society. Therefore, the claim of the petitioner was rejected.

6. However, the learned counsel for the petitioner submits that the petitioner may be provided with an opportunity by giving liberty to file a revision petition before the concerned authority.



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7. Mean while, the learned counsel for the 2nd respondent / Society brought to the notice of this Court that the petitioner is no longer in the service of the Society. She was relieved from the service from 22.02.2017 onwards, since she is not coming for the work daily and in spite of sending several communications to the petitioner, there was no reply from her. Therefore, the Management has taken a decision to remove the petitioner from service on 22.02.2017 onwards. Accordingly, on 10.03.2017 a show cause notice was issued and no reply was received, therefore, the Management passed a resolution to remove her from service on 24.03.2017.

8. This Court is of the considered opinion that whether the petitioner has challenged the order of removal from service is not known and the performance of the petitioner in the Society is also not known and it is an internal affair and this Court cannot interfere in such matters unless it is tainted with allegation of *mala fides* or the conditions of the services are violated. However, liberty may be granted to the petitioner to challenge the order of removal from service in accordance with law.



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9. With this liberty, this Writ Petition stands disposed of. No costs.

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Index : Yes / No

Neutral Citation : Yes / No

Speaking order : Non-speaking order

To

The Deputy Milk Commissioner,
(Co-operatives),
Office of the Commissioner for Milk Products
and Dairy Development,
Madhavaram, Chennai.



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V.BHAVANI SUBBAROYAN, J.

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