



W.P(MD)No.6519 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6519 of 2023
and
W.M.P(MD)No.6175 of 2023

R.Manickam

... Petitioner

Vs

- 1.The Commissioner,
Milk Production & Dairy Development,
Chennai – 51.
- 2.The Additional Registrar / Deputy Milk
Production Commissioner (Co-operative),
Chennai – 51.
- 3.The Deputy Registrar (Dairy Development),
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records connected with the impugned order of Removal from service passed by the second respondent in Na.Ka.No.24482/E2/95 dated 22.04.2010, quash the same and consequently direct the respondents to settle the retirement benefits of the petitioner for the period from the initial date of appointment on 20.11.1980 till the date of retirement on 31.05.2010 for 30 years.



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For Petitioner : Mr.S.Govindan

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner was appointed as Extension Assistant on 20.11.1980. He had served the Department till 01.08.1995. Thereafter, the petitioner has been unauthorizedly absent. Charge memo was issued twice. Eventually, exparte enquiry was conducted and it was concluded that the charge was proved. The petitioner was dismissed from service on 22.04.2010. Challenging the same, the present writ petition came to be filed.

3. As rightly pointed out by the learned Additional Government Pleader appearing for the respondents, the writ petition is hopelessly barred by laches. But the learned counsel appearing for the petitioner strongly submits that the petitioner was mentally ill during the relevant time. Even now the petitioner is taking treatment in a old age home and his condition has not improved much. If only on account of mental illness the petitioner was unauthorizedly absent,



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then such a person could not have been dismissed or removed from service.

The authority can consider the effective service put in by him and the total number of years of service put in by him and thereafter, determine the monetary benefits payable to him. But the condition precedent for revisiting the punishment is that the petitioner must establish that he was suffering from mentally illness. The petitioner is now said to be in Chennai.

4. The first respondent Board shall refer the petitioner's case to the Regional Medical Board. The Regional Medical Board shall examine the petitioner and offer its report. If the report is to the effect that the petitioner is suffering from mental illness, then one can conclude that the version projected in the affidavit is probably true. Based on the report of the Medical Board, the first respondent is directed to revisit the punishment imposed on the petitioner on 22.04.2010. Such a reference to the Medical Board shall be made by the first respondent within a period of four weeks from the date of receipt of a copy of this order. The Medical Board shall offer its opinion within a period of eight weeks thereafter. Based on the report of the Medical Board, the first respondent shall pass speaking orders and communicate the same to the petitioner or his next kin within a period of four weeks thereafter.



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5. This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

27.06.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

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G.R.SWAMINATHAN, J.

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