



W.P.(MD)No.8427 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8427 of 2023

and

W.M.P.(MD)No.7751 of 2023

B.Pandin

... Petitioner

Vs.

- 1.The Managing Director,
Tamilnadu Co-Operative Milk Producers Federation Limited,
Aavin Illam, TCMPP Ltd.,
3A, Pasumpon Muthuramalinganar Salai,
Nanthanam, Chennai-600035.
- 2.The General Manager,
Sivagangai District Co-Operative Milk Producers Union Limited,
O.Siruvayal Road, Kalanivasal,
Karaikudi, Sivagangai-630002.
- 3.The Chairman,
Sivagangai District Co-Operative Milk Producers Union Limited,
O.Siruvayal Road, Kalanivasal,
Karaikudi, Sivagangai-630002.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records of the 2nd Respondent pertaining to the impugned order Na.Ka.No.42/P&AI/2020 dated 13.03.2023 and quash the same as illegal



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and direct the 2nd respondent to issue the order of appointment to the petitioner as Senior Factory Assistant in the MBC priority category pursuant to the recruitment vide Advertisement No.10/2017 dated 30.10.2017 by consideration petitioner's representation dated 02.03.2023 within the stipulated time period.

For Petitioner : Mr.G.Sakthi Rao

For Respondents : Mr.J.Devasenar,
Standing Counsel.

ORDER

Heard the learned counsel on either side.

2.The petitioner seeks appointment to the post of Senior Factory Assistant in the second respondent union. Since his request was rejected by the impugned order, the present writ petition came to be filed.

3.The respondents have filed counter affidavit and the learned standing counsel took me through its contents. The learned standing counsel would point out that the union had issued notification dated 30.10.2017 inviting applications for filling 17 posts of Senior Factory



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Assistant from eligible candidates. As many as 817 applications were received. Thereafter, written examination was conducted. That was followed by interview and certificate verification. The learned standing counsel fairly states that the petitioner was one of the selected candidates. The selected candidates including the petitioner were intimated about their selection and directed to report for duty on 09.05.2018 after collecting the appointment orders. However, only ten persons received the appointment orders and joined duty. On 10.05.2018, one Rajkumar moved the High Court and obtained interim order in respect of the selection process by filing W.P.(MD)No.10646 of 2018. The said writ petition was dismissed as withdrawn on 10.12.2019. Subsequently, the post was brought under the purview of TNPSC. The cadre strength of the union was also reduced. Because of these subsequent developments and in-action on the part of the petitioner, the management was unable to accept the petitioner's request. The learned counsel would state that the writ petition suffers from the vice of laches and pressed for dismissal of the writ petition.

4.I carefully considered the rival contentions and went through the materials on record. The petitioner belongs a family of an ex-service



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man. He comes under priority category. The fact is that the petitioner was selected in the selection process that concluded on 08.05.2018. The learned standing counsel would state that the results were published in the notice board in the evening of 08.05.2018 and selected candidates were called upon to collect the appointment orders and report for duty. The learned counsel for the petitioner would state that the call letter for certificate verification held on 07.04.2018 was received through post. Likewise, the call letter for participating in the interview that was held on 08.05.2018 was also received through post. In these circumstances, one can conclude that the appointment order should also have been sent through post. Therefore, it is difficult to believe that the selected candidates were orally intimated to collect the appointment orders and report for duty on 09.05.2018 itself. I would not fault the respondents. The petitioner as a selected candidate could not join duty only on account of institution of writ proceedings by Thiru.Rajkumar. When the said writ petition was dismissed as withdrawn on 10.12.2019, the petitioner's right which was eclipsed till then sprang back to life. Therefore, the employer ought to have intimated the petitioner about the dismissal of the writ petition and called upon him to join duty. That was not done. Therefore, the employer having failed in its duty to intimate cannot put the



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subsequent developments against the petitioner. In any event, the subsequent developments will not have any bearing on an already accrued vested right.

5.In this view of the matter, the order impugned in this writ petition is set aside. The respondents are directed to permit the petitioner to join duty as Senior Factory Assistant. The question of paying backwages for the intervening period does not arise at all. The petitioner through his counsel makes a statement that the petitioner will not have any monetary claim for the intervening period. The petitioner's rights will be counted from the date when he joins duty pursuant to the proceeding to be issued by the respondents.

6.This writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
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