



W.P.(MD).No.19661 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.19661 of 2023

and

W.M.P(MD)No.20757 of 2023

K.Thangarajan

... Petitioner

Vs.

1.The Commissioner,
Milk Production and Dairy Development,
No.3a, Chamiers Road,
Nandanam,
Chennai-600 035.

2.The Managing Director,
Tamil Nadu Co-operative Milk Producers
Federation Limited,
No.3a, Chamiers Road,
Nandanam,
Chennai-600 035.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Ref. No.4050/Pers.Estt.1/2019, dated 07.07.2023 on the file of the second respondent and quash the same as illegal and consequently for a direction, directing the second respondent to



W.P.(MD).No.19661 of 2023

disburse the retirement benefits and gratuity of the petitioner along with proportionate interest for belated payment.

For Petitioner : Mr.T.Aswin Rajasimman
for M/s.Lajapathi Roy and Associates

For Respondents : Mr.J.Devasenani
Standing Counsel

ORDER

The present writ petition has been filed by a retired Assistant General Manager (Administration) in the Tamil Nadu Co-operative Milk Producers Federation challenging the order, dated 07.07.2023, wherein the request of the writ petitioner for disbursement of his terminal benefits has been rejected.

2. By an order, dated 31.05.2019, the Federation has permitted the writ petitioner to retire from services on attaining the age of superannuation. However, the said order was passed without prejudice to the disciplinary action and an enquiry under Section 82 of the Tamil Nadu Co-operative Societies Act pending as against the writ petitioner. In the said order, dated 31.05.2019, the terminal benefits were directed to be withheld till the disposal of these two proceedings.



W.P.(MD).No.19661 of 2023

WEB COPY

3. On 09.03.2020, the disciplinary proceedings were concluded and final orders were passed imposing a punishment of stoppage of increment for one year without cumulative effect and the equivalent amount to be recovered from his terminal benefits. As far as the proceedings under Section 82 of the Tamil Nadu Co-operative Societies Act is concerned, the petitioner has suffered an order to the effect that he was directed to pay a sum of Rs.2,59,876/-. Therefore, it is clear that both the proceedings that were initiated as against the writ petitioner have got terminated.

4. When the writ petitioner sent a representation to the employer for release of his terminal benefits, the same has been rejected by the authorities on the ground that as against the order, dated 09.03.2020 the Federation is contemplating to file a review before the Board. Since there is no elected Board at present, the review could not be filed. The second reason assigned in the impugned order is that a sum of Rs.2,59,876/- is yet to be recovered from the writ petitioner. This order is under challenge in the present writ petition.

5. According to the learned Counsel appearing for the writ petitioner, as per the order, dated 09.03.2020, a punishment of stoppage of increment for one



W.P.(MD).No.19661 of 2023

year without cumulative effect and the equivalent amount is sought to be recovered from him. On instructions, the learned Counsel appearing for the writ petitioner submits that he is agreeable for deduction of the said increment amount, which could not be deducted in view of his superannuation. He further submits that he has no objection for recovering a sum of Rs.2,59,876/- which is sought to be recovered in view of the proceedings initiated under Section 82 of the Tamil Nadu Co-operative Societies Act.

6. Per contra, the learned Standing Counsel appearing for the respondent Federation contended that the punishment imposed upon the writ petitioner by an order, dated 09.03.2020 is not commensurate with the gravity of the misconduct and hence, they intend to file a review before the Board. There is every possibility of enhancement of punishment and therefore, at this point of time, the terminal benefits of the writ petitioner cannot be released. If the terminal benefits are released, it would be difficult for the Federation to recover the said amount from the writ petitioner. Hence, he prayed for dismissal of the writ petition.

7. I have carefully considered the submissions made on either side.



W.P.(MD).No.19661 of 2023

WEB COPY

8. The facts narrated above will clearly disclose that the writ petitioner has no objection whatsoever for recovering a sum of Rs.2,59,876/- which is sought to be recovered in view of the proceedings under Section 82 of the Tamil Nadu Co-operative Societies Act. As against the punishment imposed by an order, dated 09.03.2020, so far the Management has not filed any review. It is also brought to the notice of the Court that the review lies only before the Board which has not yet been constituted for so many years. Therefore, in view of the above said facts, this Court is of the considered opinion that the terminal benefits of the writ petitioner cannot be withheld for an indefinite period of time expecting the Board to be constituted and a review to be taken up on a later point of time. Already three year period has elapsed from the date of passing of the order, dated 09.03.2020.

9. In view of the above said deliberations, the respondent Federation can retain a sum of Rs.2,59,876/- and the increment amount which is sought to be recovered as per the order, dated 09.03.2020 and release the balance amount to the writ petitioner, within a period of twelve (12) weeks from the date of receipt of a copy of this order.



W.P.(MD).No.19661 of 2023

WEB COPY

10. This writ petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

10.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

1.The Commissioner,
Milk Production and Dairy Development,
No.3a, Chamiers Road,
Nandanam,
Chennai-600 035.

2.The Managing Director,
Tamil Nadu Co-operative Milk Producers
Federation Limited,
No.3a, Chamiers Road,
Nandanam,
Chennai-600 035.



WEB COPY



W.P.(MD).No.19661 of 2023

R.VIJAYAKUMAR, J.

BTR

W.P.(MD).No.19661 of 2023

10.10.2023