



W.P. No.11252 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.11252 of 2011

M.Lakshmi Narayanan

... Petitioner

Vs.

1.The Board/Special Officer,
Tamil Nadu Co-operative Milk Producers
Federation Ltd. Aavin Illam,
Madhavaram Milk Colony,
Madhavaram, Chennai-600051

2.The Managing Director,
Tamil Nadu Co-operative Milk Producers
Federation Ltd. Aavin Illam,
Madhavaram Milk Colony,
Madhavaram, Chennai-600051.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in Ref.No.2304/Pers.IR.3/2008 dated 28.06.2010 confirming the order of the second respondent in Ref.No.2304/Pers.IR.3/2008 dated 11.03.2010 and quash the said order and direct the respondents to grant all consequential benefits to the petitioner.

For Petitioner : Mr.P.Rajendran

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For R1 & R2 : Mr.A.Maheshnath

ORDER

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This writ petition has been filed seeking writ of certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in Ref.No.2304/Pers.IR.3/2008 dated 28.06.2010, confirming the order of the second respondent in Ref.No.2304/Pers.IR.3/2008 dated 11.03.2010, and to quash the said order and to direct the respondents to grant all consequential benefits to the petitioner.

2. The brief facts that are relevant for disposal of this writ petition are as under:

The petitioner herein, while working as Deputy General Manager(Vety.), in the respondent Federation, he was subjected to disciplinary proceedings by issuing two charge memo dated 27.02.2008 and 21.05.2008. After conducting an enquiry into the charges, some of the charges were held as proved, some of the charges were held as partly proved and most of the charges were held to be not proved. It was thereafter, a show cause notice, dated 23.12.2009 was issued to the petitioner by the Managing Director to show cause as to why the petitioner should not be compulsorily



retired from service. This was done even before communication of the enquiry report to the petitioner. The report of the enquiry officer dated 11.06.2009 was furnished to the petitioner on 11.01.2010 i.e., after issuing the show cause notice. It was thereafter, the petitioner submitted his explanation on 17.02.2010 and then, the 2nd respondent passed a final order dated 11.03.2010 imposing punishment of compulsory retirement on the petitioner. Aggrieved by the said punishment, the petitioner filed an appeal before the 1st respondent on 29.03.2010. As the board was not available at the relevant point of time, the said appeal filed by the petitioner was rejected by the Special Officer, holding the charge of the Board, by an order dated 28.06.2010. It was aggrieved by the said original order of punishment dated 11.03.2010 as confirmed by the order dated 28.06.2010 passed by the 1st respondent, the petitioner approached this Court by filing the present writ petition.

3. The learned counsel for the petitioner mainly contended that the appeal that was filed by the petitioner before the 1st respondent was in fact decided by the 2nd respondent, while functioning as a Special Officer in the place of the respondent Board and therefore, the impugned order cannot be



sustained, as the very remedy of appeal was rendered useless, as the very same person who passed the original order has dealt with the appeal filed by the petitioner.

4. Though the 2nd respondent filed counter affidavit, the fact that the appeal filed by the petitioner was decided by the Special Officer who happens to be the Managing Director of the respondent Federation is not disputed.

5. In the circumstances, it is clear that the appeal filed by the petitioner, against the order of punishment dated 11.03.2010, was once again decided by the very same officer, who passed the order of punishment, rejecting the appeal by passing the order dated 28.06.2010. By virtue of the fact that the very same officer has considered the appeal filed by the petitioner, the very remedy of appeal provided under the relevant Rules/Regulations of the respondent Federation is rendered useless. The Managing Director of the respondent Federation, who is working as a Special Officer in the place of the Board ought not have considered the appeal filed by the petitioner, as the said appeal was filed against the order passed by the very same officer. On this ground alone, the appellate order dated 28.06.2010



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passed by the 1st respondent is liable to be set aside.

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6. During the course of arguments, it is informed that the properly constituted Board is functioning as on date. In the circumstances, this Court is of the considered view that, it is a fit case where the matter is to be remanded back to the 1st respondent for considering the appeal filed by the petitioner.

7. In the light of the above, the impugned order dated 28.06.2010 passed by the 1st respondent is hereby quashed and the matter is remanded back to the 1st respondent for considering the appeal dated 29.03.2010 filed by the petitioner against the order of punishment dated 11.03.2010, and for passing appropriate order strictly in accordance with law by duly affording an opportunity of personal hearing to the petitioner. The 1st respondent is further directed to dispose of the appeal, as expeditiously as possible, at any rate within a period of two (2) months from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is partly allowed. The connected



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miscellaneous petitions, if any, shall stand closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
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To:

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MUMMINENI SUDHEER KUMAR,J.

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