



W.P.No.12452 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 28.02.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.12452 of 2010
and M.P.No.1 of 2010

S.Thimmappan

.. Petitioner

Versus

1. The State of Tamil Nadu,
represented by Secretary to Government,
Animal Husbandry, Dairying and
Fisheries (M.P.II) Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner for Milk
Production and Diary Development,
Madhavaram Milk Colony,
Madhavaram,
Chennai - 600 051.

3. The General Manager,
Dharmapuri District Co-operative
Milk Producers' Union,
Post Box No.13,
Salem Main Road,
Krishnagiri - 635 007,
Krishnagiri District.

.. Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records from the 1st respondent relating to the order made in Letter No.20134/MP.11/2009-4, dated 28.04.2010 and quash the said order, dated 28.04.2010 and direct the respondents to promote the petitioner as Senior Factory Assistant with effect from 06.09.1999 and fix him in the time scale of Rs.2550-50-2600-60-3200 and pay him the arrears and other monetary benefits and award costs.

For Petitioner : Mr.S.Ayyathurai

For Respondents : Mr.A.Anandan,
Government Advocate

ORDER

This Writ Petition is filed challenging the order, dated 28.04.2010, whereby, the respondents have declined to promote the petitioner as Senior Factory Assistant with effect from 06.09.1999, to fix him in the time scale of Rs.2550-3200.

2. It is seen from the impugned order itself that earlier there were recommendations of the Commissioner of Milk Production and Diary Development, dated 21.11.2000 and 11.08.2005 to grant the relief to the petitioner. However, the Government, considering the recommendations,



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had rejected the proposal on the ground that the petitioner has not possessed the required age, educational qualification etc.

3. When the matter came up for hearing on 26.02.2024, the learned Counsel for the petitioner would submit that in identical cases filed by the other employees of the same department, this Court, by the common order, dated 29.11.2023 in W.P.No.12342 of 2010 etc., had held that the Government cannot take such a view without even adverting to the facts and in a cryptic and mechanical manner and held that the decision of the Government is colourable and arbitrary exercise of power and allowed the Writ Petitions.

4. Paragraph No.10 being the operative portion of the said order is extracted hereunder :-

" **10.** In fine, this Writ Petition is allowed setting aside the order of the Government with a direction to promote the petitioners as Senior Mazdoors with effect from the date on which they are entitled to be promoted and they are also entitled to time scale of pay as available to the post of Senior Factory Assistant. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed."



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5. Upon the said representation, a copy of the said order was supplied to the learned Counsel for the respondents and time was also granted.

6. When the matter is taken up for hearing today, since the matter is squarely covered by the said judgment and the learned Counsel for the respondents is also not in a position to distinguish the said order to the facts and circumstances of the present case, I am of the view that this Writ Petition is also to be allowed on the said terms as that of the judgment, dated 29.11.2023.

7. Accordingly, this Writ Petition is allowed setting aside the order, dated 28.04.2010 and there shall be a further direction to promote the petitioner as Senior Factory Assistant with effect from the date on which he was found to be eligible and the petitioner will also be entitled to the time scale of pay as available to the post of Senior Factory Assistant. The entire exercise shall be carried out within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.



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Index : yes
Speaking order
Neutral Citation : yes
grs

To

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Animal Husbandry, Dairying and
Fisheries (M.P.II) Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner for Milk
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D.BHARATHA CHAKRAVARTHY, J.

grs

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