



WEB COPY



W.P.Nos.10535, 12615 & 4516 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. Nos.10535, 12615 & 4516 of 2021
and W.M.P.Nos. 5132, 11123, 13411 of 2024

W.P.No.10535/2021

N.Dharmalingam

... Petitioner

/vs/

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Animal Husbandry, Dairying and Fisheries Department.
2. The Commissioner of Milk Production
and Dairy Development,
Madharavam Milk Colony,
Chennai.
3. The Managing Director,
Tamilnadu Cooperative Milk Producers Federation Limited,
Aavin Illam,
3A, Pasumpon Muthuramalinganar Salai,
Nandanam,
Chennai – 600 035.



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4. The Deputy Registrar (Dairying),
Door No.97/38, Park Tower Second Floor,
Cooperative Colony,
Mohanur Road,
Namakkal (TK & DT) – 637 001.

5. The General Manager,
Namakkal District Cooperative Milk Producers Union Ltd.,
1/1167, E.B.Colony,
Paramathi Road,
Namakkal District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the impugned order issued by the 5th respondent vide his proceeding in Na.Ka.No.1027/administration/N.Dharmalingam, Deputy Manager, (Engineer) Court case/2020 dated 04.03.2021, quash the same and direct the respondents to give regular promotion to the petitioner as Manager (Engg) chilling centre, Namakkal District and confer all the consequential benefits.

For Petitioner ... Mr.P.Ganesan

For Respondents ... Mr.T.Chezhiyan,
Additional Govt. Pleader for R1

Mr.R.Bala Ramesh for R2 to R5



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W.P.No.12615/2021

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N.Dharmalingam

... Petitioner

/vs/

1. The Commissioner of Milk Production
and Dairy Development,
Madharavam Milk Colony, Chennai.

2. The General Manager,
Namakkal District Cooperative Milk Producers Union Ltd.,
1/1167, E.B.Colony,
Paramathi Road,
Namakkal District.

3. The Chairman,
Namakkal District Cooperative Milk Producers Union Ltd.,
1/1167, E.B.Colony,
Paramathi Road,
Namakkal District.

4. R.Sabareesh

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the impugned order issued by the first respondent vide his proceeding in Na.Ka.No.3132/no.1/2021, dated 11.05.2021, quash same and directing the



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respondents to give regular promotion to the petitioner as Manager (Engg) full charge chilling Centre, Namakkal District, if necessary, by relaxing the necessary provisions of the By-law, and confer all the consequential benefits.

For Petitioner ... Mr.P.Ganesan

For Respondents ... Mr.T.Chezhiyan,
Additional Govt. Pleader for R1

Mr.R.Bala Ramesh for R2 & R3

Mr.L.P.Shanmugasundaram for R4

W.P.No.4516/2021

N.Dharmalingam

... Petitioner

/vs/

1. The Commissioner of Milk Production
and Dairy Development,
Madharavam Milk Colony,
Chennai,
Tamil Nadu – 600 051.

2. The Managing Director,
Tamilnadu Cooperative Milk Producers Federation Limited,
Aavin Illam,
3A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai – 600 035.



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3. The Deputy Registrar (Dairying),
No.306, 2nd Floor,
Government Additional Buildings,
Namakkal Collectorate Campus,
Nallipalayam (Post), Namakkal (TK &DT) – 637 003.

4. The General Manager,
Namakkal District Cooperative Milk Producers Union Ltd.,
1/1167, E.B.Colony,
Paramathi Road,
Namakkal District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the impugned order issued by the fourth respondent vide paper advertisement with reference No.1026/Admin/direct recruitment 2020 dated 11.01.2021, quash the same and direct the respondents to give regular promotion to the petitioner as Manager (Engg) full charge chilling Centre, Namakkal District and confer all the consequential benefits.

For Petitioner ... Mr.P.Ganesan

For Respondents ... Mr.I.John Arokiadoss, for R2 & R4

Mr.R.Bala Ramesh for R1 & R3



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COMMON ORDER

WEB COPY W.P.No.10535/2021 is filed challenging the impugned order issued by the 5th respondent vide his proceeding in Na.Ka.No.1027 / administration / N.Dharmalingam, Deputy Manager, (Engineer) Court case /2020 dated 04.03.2021 and to direct the respondents to give regular promotion to the petitioner as Manager (Engg) Chilling Centre, Namakkal District and confer all consequential benefits.

W.P.No.12615/2021 is filed challenging the impugned proceedings of the first respondent in Na.Ka.No.3132/no.1/2021, dated 11.05.2021 and to direct the respondents to give regular promotion to the petitioner as Manager (Engg) Full Charge Chilling Centre, Namakkal District, if necessary, by relaxing the necessary provisions of the By-law, and confer all the consequential benefits.

W.P.No.4516/2021 is filed challenging the the impugned order issued by the fourth respondent vide paper advertisement with reference No.1026/Admin/direct recruitment 2020 dated 11.01.2021 and to direct the



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respondents to give regular promotion to the petitioner as Manager (Engg)

Full Charge Chilling Centre, Namakkal District and confer all the consequential benefits.

2. The petitioner was working as Deputy Manager (Engg) at Salem District Cooperative Milk Producer's Union which is being managed by the General Manager of the concerned district. When the Namakkal District Cooperative Milk Producer's Union was formed, the Salem District Cooperative Milk Producer's Union was bifurcated and accordingly the staffs attached to the Salem District Cooperative Milk Producer's Union have been deputed to Namakkal District Cooperative Milk Producer's Union on the ratio of 60:40. In view of the said development, the petitioner was happened to transfer to Namakkal District Cooperative Milk Producer's Union and continued to work as Deputy Manager. The petitioner's juniors who were retained in Salem District Cooperative Milk Producer's Union have been promoted to the next level post but the petitioner has not yet been promoted to the next level managerial engineering post. Hence, the present writ petitions are filed.



3. Mr.P.Ganesan, the learned counsel for the petitioner, submitted that so far as the post of 'Manager' (Engineer) is concerned, the recruitment can be made either through direct recruitment or promotion on selection basis; obviously the petitioner's claim is not through direct recruitment but through promotion; had the petitioner was allowed to remain at Salem District Cooperative Milk Producer's Union, he would have got his Managerial Engineer promotion long back; in view of the newly formed society, the petitioner's promotion got stagnated and his seniority is also not fixed in Namakkal District Cooperative Milk Producer's Union; in fact the post of 'Manager' was filled through direct recruitment and for which one Sabarish has been recruited and appointed; the petitioner had also challenged the said appointment by filing another Writ Petition in W.P.No.12615 of 2021 and in which the present Manager of Namakkal District Cooperative Milk Producer's Union is shown as fourth respondent.

3.1 The petitioner gave a representation on 12.01.2021 to consider him to the post of Manager by cancelling the notification issued for direct recruitment to the said post; in fact he had filed a yet another writ petition in



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W.P.No.4516 of 2021 challenging the notification dated 11.01.2021 issued for recruitment of Manager to the Namakkal District Cooperative Milk Producer's Union through direct recruitment; the petitioner's representation dated 12.01.2021 was disposed by the General Manager on 04.03.2021; in the said order it has been stated that 36 persons have opted to go to newly formed union and they have not been given with any order as to their permanent absorption; it is further stated that the Government has been addressed for sanctioning 21 additional post in view of the demands of the society and to improve the infrastructure; none of the 36 persons who have been transferred to Namakkal District Cooperative Milk Producer's Union have been given with any promotion so far. For the reasons best known, the General Manager has stated that the petitioner has not completed three years of service in the newly formed union and hence no promotion can be granted.

4. Mr.T.Chezhiyan, the learned Additional Government Pleader, submitted that unless any new posts are sanctioned and any order has been issued by the Government for permanently absorbing the persons who are already deputed to the Namakkal District Cooperative Milk Producer's Union,



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no further promotion can be granted to them.

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5. To form a new union at Namakkal District was not at the whims of the petitioners. The petitioner was compelled to move from the Salem District Cooperative Milk Producer's Union, only because a new union has been formed and for which the existing staffs working in the Salem District Cooperative Milk Producer's Union have been deputed at Namakkal District Cooperative Milk Producer's Union in the ratio of 60:40. Even though the petitioner and 35 others have given their willingness to serve in the newly formed Union, that was also out of compulsion and knowing well that there is a demand for the post to be filled up from the existing Salem District Cooperative Milk Producer's Union.

6. In fact the employees would willingly go to the newly formed District Units by believing that their seniority will be moved easily in the new districts in view of the reduced strength of the total staff members. But unfortunately the petitioner's seniority was neither retained in the old Salem District Cooperative Milk Producer's Union nor updated in the newly formed



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Namakkal District Cooperative Milk Producer's Union. In fact the petitioner had completed at least five years of service at Namakkal District Cooperative Milk Producer's Union despite the stagnation continued.

7. While similarly placed persons who opted to be remained at Salem District Cooperative Milk Producer's Union, did not have any hurdles in getting their promotion and other service benefits, the petitioners and others are expecting even an order to get their absorption on permanent basis. No serious steps is being taken by the Managing Director and other persons in the managerial capacity and no further development has been made so far. Had the petitioners known that their service condition would become worse than their original employment at Salem District Cooperative Milk Producer's Union, none of the employees would have opted to go and serve in Namakkal District Cooperative Milk Producer's Union. When the employees have arisen up to the occasion and cooperated with the department by rendering their services in the new department, the Government has also got an equal duty to consider their concern and pass orders resolving their long pending demands.



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8. So far as the appointment to the post of Manager through Direct Recruitment is concerned, the recruitment got completed and some persons have also joined and there is no vacancy in the said post. In that case, the Government respondents and the Directors / Managers of the Union should compassionately consider the pitiable situation of the petitioner and others and pass appropriate orders either by creating new posts for accommodating them in the said post through promotion or at least send them back to their parent Union by allowing them to retain their original seniority in the same Union.

9. The order dated 04.03.2021 did not address the concern of the petitioner. However, the order dated 04.03.2021 does not place any bar on the career prospects of the petitioner and hence the petitioner can ignore the same. In fact the petitioner had given a representation dated 11.03.2021 by reiterating the earlier submissions and the same is pending without any orders.



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10. It is learnt from the learned counsel for the respondents appearing for the Union that the representation of the petitioner had already been forwarded to the Government and the same is pending.

11. In view of the reasons stated above and also taking into consideration of the dilemma of the petitioner and others for having opted to serve in the newly formed district, the respondents are directed to consider the representation of the petitioner dated 11.03.2021 and also the existing state of affairs and pass appropriate orders in the line of the discussions made in this order, within a period of six weeks from the date of receipt of a copy of this order.

12. With the above direction, these Writ Petitions are disposed. No costs. Connected miscellaneous petitions are closed.

07.02.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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To:

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State of Tamil Nadu,
Animal Husbandry, Dairying and Fisheries Department.
2. The Commissioner of Milk Production
and Dairy Development,
Madharavam Milk Colony,
Chennai.
3. The Managing Director,
Tamilnadu Cooperative Milk Producers Federation Limited,
Aavin Illam,
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Door No.97/38, Park Tower Second Floor,
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R.N.MANJULA ,J.

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