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W.P.No.20924 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.04.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.20924 of 2019

M.Kaliaperumal

... Petitioner

Vs.

1. The Director,
Milk Production and Dairy Development Department,
Madhavaram Milk Colony,
Chennai-600 051

2. The Tamil Nadu Co-operative Milk Producers Federation Ltd.,
Rep by its Managing Director,
Chennai - 600 035.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, directing the Respondent to call for all connected records in the impugned order in ref.No.6228/ M1/ 2010 dated 12.10.2018 of the Director of Milk Production and Dairy Development Department Chennai-51 and to quash the same consequently to direct the Respondents more particularly the second Respondent to sanction all the attendant benefits



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For Petitioner : Mr.A.L.Namasivayam

For R1 : Mr.M.Murali,
Government Advocate

For R2 : Mr.K.N.Pandian,
Government Advocate

ORDER

The Writ Petition has been filed questioning the order passed by the respondent no.1 under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as "the Act, 1983" for short) in Proceedings No.6228/ M1/ 2010 dated 12.10.2018.

2. The brief facts that are relevant for disposal of the Writ Petition are as under:-

2.1. While the petitioner was working as Deputy Manager, Marketing, he was subjected to disciplinary proceedings on the alleged misconduct resulting in imposing the punishment of stoppage of three increments with cumulative effect, besides treating the period of suspension as leave for which the petitioner is entitled to through proceedings dated 06.07.2006 passed by the respondent no.2. Aggrieved by the same, the petitioner filed an appeal



before the Appellate Authority and the Appellate Authority through proceedings bearing Ref.No.25533/Pers.IR.1/2007 dated 07.01.2008, confirmed the order of punishment. Aggrieved by the same, the petitioner filed Revision Petition under Section 153 of the Act, 1983 before the respondent no.1 and the same was returned on 12.03.2010 raising certain objections and thereafter, the same was re-submitted by the petitioner, which was disposed of through the impugned order dated 12.10.2018, refusing to interfere with the order of punishment and the confirming orders passed in the appeal. During the pendency of the said Revision Petition, the petitioner retired from service on attaining the age of superannuation on 30.06.2008.

3. The petitioner is challenging the impugned order dated 12.10.2018 mainly on the ground that the said Revision Petition was kept pending for 10 years and the same was disposed of without considering the matter on merits on technical grounds and thereby, the petitioner is deprived of the remedy of Revision provided under Section 153 of the Act, 1983.

4. The respondents 1 and 2 filed separate counter-affidavit supporting the impugned order. In the counter-affidavit filed by the respondents 1 and 2,



it is contended that the Revisional Authority has considered the matter on merits and came to the conclusion that the order of punishment passed against the petitioner does not warrant any interference by the Revisional Authority. The learned counsel appearing on behalf of the respondent no.2 submitted that the respondent no.2 has conducted a detailed enquiry and it is only after finding that the charges levelled against the petitioner, appropriate punishment was imposed.

5. This Court has thoroughly considered the impugned revisional orders passed by the respondent no.1.

6. From the perusal of the order, it is noticed that the Revisional Authority has taken note of the grounds of appeal raised by the petitioner against the orders of punishment imposed by the Personal Committee. The said grounds were not considered by the Revisional Authority on the ground that the order of punishment passed by the Personal Committee was confirmed by the Appellate Authority, but the petitioner failed to raise any grounds against the orders passed by the Appellate Authority and all the grounds that are raised are only against the original order of punishment.



Further, it is also observed that the revision petitioner has not mentioned any facts contradicting the decision of the Personal Committee/ Appellate Authority. These two findings recorded by the Revisional Authority are self-contradictory. On one hand, the Revisional Authority admitted that the petitioner has raised grounds in the appeal challenging the order of the disciplinary authority and on the other hand, it is observed that the petitioner has not mentioned any facts to contradict the decision of the Personal Committee/ Disciplinary Authority. Once it is admitted that the petitioner has raised grounds against the order of punishment passed by the Personal Committee/ Disciplinary Authority, the findings of the Revisional Authority stating that the petitioner has not mentioned any facts to contradict the decision of the Personal Committee is bound to be treated as incorrect or as the findings rendered without application of mind.

7. In the Revision Petition filed, once the petitioner raised various grounds against the original order of punishment, the Revisional Authority is under obligation to consider all such grounds. The order passed by the Appellate Authority is only confirming the order of the Disciplinary Authority and therefore, it is suffice if the petitioner raise appropriate grounds against



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the very order of punishment passed by the Disciplinary Authority. It is not necessary that the petitioner has to raise grounds only against the order passed by the Appellate Authority. Fact is that the petitioner is aggrieved by the punishment that was imposed by the Disciplinary Authority. Admittedly, the petitioner is stated to have raised grounds against the order of punishment passed by the Disciplinary Authority, but none of the said grounds are shown to have been considered in the impugned order passed by the Revisional Authority. Further, it is also necessary to notice that the Revision Petition that was filed by the petitioner as early as in the year 2008-2010 was disposed of by an order dated 12.10.2018 i.e., almost after a lapse of five years and without affording any opportunity of personal hearing to the petitioner. When the Revision Petition filed by the petitioner was kept pending for such a long period, in all fairness, the respondent no.1 is expected to afford an opportunity of personal hearing to the petitioner and also to submit any other relevant material. But unfortunately, none of such procedure is adopted by the respondent no.1.

8. In the considered view of this Court, the impugned order is wholly unsustainable for want of proper consideration of the Revision Petition filed



by the petitioner and also on the ground of failure to exercise the jurisdiction conferred under Section 153 of the Act, 1983 in proper perspective as well as on the grounds of violation of the principles of natural justice.

9. Accordingly, the impugned order is set aside and the matter is remanded back to the respondent no.1 for considering the Revision Petition filed by the petitioner afresh by duly affording an opportunity of personal hearing to the petitioner. The respondent no.1 is further directed to dispose of the Revision Petition as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order. Accordingly, the Writ Petition is disposed of. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

16.04.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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