



W.P.(MD).No.3647 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.3647 of 2023

and

W.M.P.(MD).No.3416 & 3417 of 2023

V.Ganesan

... Petitioner

-VS-

1.The Managing Director,
TamilNadu Dairy Development,
Mathavaram Milk Colony,
Mathavaram, Chennai-600 051.

2. The General Manager,
The Salem District Cooperative Milk Producers' Union Ltd.,
Salem.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of recovery made by the 2nd respondent in Na.Ka.No. 192/Tho.Uravu/2021 dated 07.04.2021 and quash the same and consequently direct the respondents herein to disburse the revised pay to the petitioner for the Special Grade Technician/Technician Grade-I on par with Electrician Grade-I with effect from 01.06.1986 notionally and monetary benefits from 01.04.2013 and full pension for 31 years of service and with all arrears of



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revised monetary and withheld service benefits as per the proceedings of 2nd respondent in Ref.No.3994/E2/2018 dated 12.09.2018 and as recommended by the Pay Commissions to the employees of respondents 1 and 2 herein on par with government servants with delayed interest of 12%.

For Petitioner : Mr.K.Appadurai

For Respondents : Mr.J.Devasenar

ORDER

The instant writ petition has been filed by a retired Special Grade Technician of the 2nd respondent Cooperative Milk Producers Union, challenging the order passed by the second respondent herein on 07.04.2021, wherein a sum of Rs.8,86,821/- has been recovered from the terminal benefits of the writ petitioner.

2. The petitioner herein has attained superannuation on 29.02.2020. After his retirement, the petitioner has approached this Court for disbursement of terminal benefits by filing W.P.(MD).No.19675 of 2020. This Court by an order dated 23.12.2020, had directed the Cooperative Milk Producers Union to consider the representation of the petitioner and pass orders in accordance with law. Pursuant to the orders of this Court, the present impugned order has been passed on 07.04.2021.



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3. A perusal of the impugned order reveals that in the audit for the financial year 2018-2019, an objection has been raised with regard to the revised pay scale granted to the writ petitioner with effect from 01.04.2013 onwards. Based upon the audit objection, recovery of a sum of Rs.8,86,821/- has been effected. Challenging the same the present writ petition has been filed.

4. According to the learned counsel appearing for the writ petitioner, the deductions are unwarranted and the order of deduction has been passed without issuing any notice to the writ petitioner.

5. However, it is the case of the learned Counsel appearing for the respondents that even before retirement, on 11.02.2020, the petitioner has given a bond to the effect that in case, if any excess amount has already been paid to him, recovery could be made from his terminal benefits. Therefore, the learned Counsel appearing for the respondents sought for sustaining the order dated 07.04.2021.



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6. I have carefully considered the submissions made on either side and perused the materials available on record.

7. It could be seen from the records that the petitioner has been conferred with certain benefits based upon the revised pay scale fixed by the second respondent Co-operative Milk Producers Union by way of proceedings dated 12.09.2018. However, an objection has been raised by the Audit Department that the petitioner is not eligible for the above said revised pay scale. Merely, based upon the bond executed by the writ petitioner, the order of recovery has been passed without issuing any notice to the writ petitioner.

8. In view of the above said facts, the order impugned in this writ petition is set aside, the matter is remitted back to the file of the second respondent herein. The second respondent herein shall issue a notice to the writ petitioner enclosing the audit objection and calling for explanation from the writ petitioner. On receipt of explanation from the writ petitioner, the second respondent is at liberty to pass orders on merits and in accordance with law.



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9. With the above said observations, this writ petition stands allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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To

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Mathavaram, Chennai-600 051.

2. The General Manager,
The Salem District Cooperative Milk Producers' Union Ltd.,
Salem.

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