



W.P(MD).No.3727 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.3727 of 2024

and

W.M.P(MD)No.3641 of 2024

S.Lalitha

...Petitioner

Vs

1.The Secretary to Government,
Animal Husbandry, Dairying, Fisheries and
Fishermen Welfare Department,
Secretariat, Chennai-600 009.

2.The Commissioner,
Milk Production and Dairy Development,
Nandanam, Chennai-600 034.

3.The General Manager,
Thanjavur District Co-operative Milk Producers Union Ltd.,
Thanjavur-613 006.

4.The Deputy Registrar (Dairying),
Dairy Development Department,
Old Collector's Office, Court Road,
Thanjavur-613 007.

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to regularize the service of the petitioner with effect from the date on which, the similarly placed persons have been regularized in G.O.(2D) No.138, Animal Husbandry, Dairying and Fisheries (MP-II) Department, dated 28.09.2007,



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with all consequential monetary and service benefits.

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For Petitioners : Mr.G.Kannan
For R1,R2 & R4 : Mr.J.K.Jayaselan
Government Advocate
For R3 : Mr.Prabhu
Standing Counsel

ORDER

The present writ petition has been filed seeking a direction to the 1st respondent to regularize the service of the petitioner with effect from the date on which, the similarly placed persons have been regularized in G.O.(2D) No. 138, Animal Husbandry, Dairying and Fisheries (MP-II) Department, dated 28.09.2007, with all consequential monetary and service benefits.

2. By consent of both the parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner was appointed as Mazdoor in the office of the 3rd respondent on 25.05.1993 and he has served for more than 30 years. On completion of 480 days in continuous service, based on the decision of the Personnel Committee, dated 09.10.1995, the then Managing Director, TDCMPU Limited has regularized the service of the petitioner with effect



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from 02.01.1996 subject to the approval of the 2nd respondent, namely the Commissioner, Milk Production and Dairy Development. Pursuant to the regularization, the petitioner was granted time scale of pay vide proceedings of the Managing Director, dated 30.04.2007. On the basis of which, annual increment was granted to 15 employees including the petitioner with effect from 01.01.1997 with monetary benefits from 01.01.2006. Thereafter, the Managing Director, Thanjavur District had sent a proposal, dated 15.06.2007 to the 2nd respondent to ratify his action in regularizing the services of certain employees including the petitioner. However, the 2nd respondent vide order, dated 24.09.2007 has sought the 1st respondent to exempt the relevant provision by exercising the powers conferred on the Government in clause (a) of Section 170 of the Tamil Nadu Co-operative Societies Act, 1983 in favour of the Thanjavur D.C.M.P.U so as to enable the Union to regularize the employees without following the rule of reservation. In Annexure-IV (B) to the said letter, dated 24.09.2007 of the 2nd respondent, 10 casual labour names were shown as employees fulfilling all conditions except Employment Exchange. Similarly, in Annexure-IV (C), another 10 casual labour names were shown as employees requiring two and more relaxation. However, by mistake, the petitioner's name in Annexure-IV (C) list has been shown as relaxation in respect of completion of 480 days work within a continuous period of 2 years.



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4. The 1st respondent vide G.O(2D)No.138, Animal Husbandry, Dairying and Fisheries (MP.II) Department, dated 28.09.2007 , regularized the services of only 10 casual employees shown in Annexure IV (B) of the 2nd respondent's letter, dated 24.09.2007 by relaxing the rule through employment exchange. However, the case of the petitioner and other casual employees were not considered since more than one relaxation were required. Vide proceedings, dated 18.12.2017, the proposal was sent by the 3rd respondent to the 1st respondent through the 2nd respondent requesting to issue necessary Government Orders in the issue of regularizing the service of the other employees including the petitioner. However, the 1st respondent without considering the detailed proposal sent by the 3rd respondent as forwarded by the 2nd respondent, has passed a non-speaking order, dated 24.04.2018 stating that the proposal to regularize 8 employees of the Union whose names were omitted in G.O.(2D)No.138 is not feasible for compliance.

5. In the meanwhile, the 4th respondent in his letter, dated 22.01.2021 had sent a proposal to the 2nd respondent to regularize the service of the petitioner and one T.Kalaiyaran by relaxing the rule requiring appointment through Employment Exchange has been done in the case of similarly placed persons in G.O(2D)No.138, dated 28.09.2007 as no relaxation in respect of



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completion of 480 days is required. The said proposal was rejected by the Government vide letter, dated 25.04.2023. The other person T.Kalaiyaran has obtained an order by this Court in W.P(MD)No.15891 of 2022, dated 22.07.2022 to consider the proposal of the 4th respondent, dated 22.01.2021 on its own merits and pass appropriate orders in accordance with law. However, in compliance with the order passed by this Court, the 1st respondent passed an order rejecting the case of T.Kalaiyaran. Challenging the same, the said T.Kalaiyaran had filed W.P(MD)No.18863 of 2023, in which this Court passed an interim order in W.M.P(MD)No.15671 of 2023, dated 03.08.2023 directing the 1st respondent to revisit the order, dated 25.04.2023 on the sole point as to whether the crucial date taken for calculating the completion of 480 days in continuous 2 years period as 02.01.1996 is correct or not. Based on the said order, the service of the said T.Kalaiyaran was regularized in G.O(D)No.24, Animal Husbandry, Dairying, Fisheries and Fishermen Welfare (MP.2) Department, dated 12.01.2014. Since the petitioner is also a similarly placed person as T.Kalaiyaran, the manner in which the said T.Kalaiyaran was regularized would be applicable to the petitioner also. The 4th respondent has sent a proposal pertaining to the petitioner, dated 22.01.2021 to the 2nd respondent, who in turn has forwarded the same to the 1st respondent to regularize the services of both the petitioner and T.Kalaiyaran. However, considering the



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said T.Kalaiyaran, the petitioner has been left out. In view of the same, this writ petition came to be filed seeking to direct the 1st respondent to regularize the service of the petitioner with effect from the date of which the similarly placed persons have been regularized in G.O.(2D) No.138, Animal Husbandry, Dairying and Fisheries (MP-II) Department, dated 28.09.2007.

6. Considering the limited scope of the relief sought for, this Court direct the 1st respondent to consider the proposal which has been forwarded by the 4th respondent through the 2nd respondent to the 1st respondent, dated 22.01.2021 and pass orders in the line of the order passed in the case of T.Kalaiyaran. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of copy of this order.

7. With the above said observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Internet : Yes
Index : Yes/No
NCC : Yes/No

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To

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L.VICTORIA GOWRI, J.

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