



WP(MD) No.5781 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.06.2024**

CORAM:

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

W.P.(MD) No.5781 of 2023

and

W.M.P(MD)Nos.5362, 5363 of 2023 & 8863 of 2024

V.Manikandan

... Petitioner

Vs.

1.The Managing Director

Tamil Nadu Co-Operative Milk Producers Federation Ltd.,  
Madhavaram,  
Chennai – 600 051.

2.The Joint Managing Director

Tamil Nadu Co-Operative Milk Producers Federation Ltd.,  
Ambathur,  
Chennai – 600 098.



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3. The General Manager

Madurai District Co-Operative Milk Producers

Union Limited (Aavin),

Sathamangalam,

Madurai – 625 020.

...Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 1<sup>st</sup> respondent in connection with the impugned suitability report called for vide his proceedings in Ref.No.5034/PE4/2022 dated 07.02.2023 and quash the same as illegal, arbitrary and consequently direct him to prepare a fresh selection list for promotion to post of Executive (Engg) by fixing the ratio among the feeder categories as contemplated in his proceedings in Ref.No.6266/SR-II/2018 dated 28.05.2019 and thereby include the petitioner's name in the suitability report called for from the 2<sup>nd</sup> respondent.



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For Petitioner : Mr.M.Mohanasundaram

For Respondents : Mr.Veera Kathiravan

Senior Counsel

assisted by Mr.J.Devasenar

### **ORDER**

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to call for the records on the file of the 1<sup>st</sup> respondent in connection with the impugned suitability report called for vide his proceedings in Ref.No.5034/PE4/2022 dated 07.02.2023 and quash the same as illegal, arbitrary and consequently direct him to prepare a fresh selection list for promotion to post of Executive (Engg) by fixing the ratio among the feeder categories as contemplated in his proceedings in Ref.No. 6266/SR-II/2018 dated 28.05.2019 and thereby include the petitioner's name in the suitability report called for from the 2<sup>nd</sup> respondent.



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2. Heard Mr.M.Mohanasundaram, learned counsel for the petitioner, Mr.Veera Kathiravan, learned Senior Counsel assisted by Mr.J.Devasenar, learned Additional Government Pleader appearing for the respondents.

3. The petitioner joined as a Technician Plumber in the respondent Milk Producers Federation on 26.09.2016. It is submitted by the petitioner that the ratio of 3:1:1:1:1:1 has been fixed and mentioned among the feeder category i.e., three post for Technician (Operation), one post for Technician (Plumber), one post for Technician (Refrigeration), one post for Technician (Welding), one post for Technician (Store) and one post for Technician (Compressor), respectively for promotion to the post of Executive (Engineer).



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4. The grievance of the petitioner is that his batchmate Sudarsan has been promoted to the post of Executive (Engineer) on 04.12.2019 even though he was junior by age; the provisional list comprised of 75 persons from the feeder categories for promotion to the post of Executive (Engineer) and prepared by the first respondent is not in accordance with the ratio fixed above, the respondent has violated their own proceedings dated 28.05.2019 in ref.No.6266/SR-II/2018; in view of it the petitioner has lost the opportunity of getting himself included in the promotion panel and hence, he has filed this writ petition.

5. The learned Senior Counsel appearing for the respondents submitted that the earlier ratio fixed for promotion to the post of Executive(Engineer) in accordance with *inter se* seniority among various Technicians have been subsequently amended. And as per the amendment made to the bye-laws of the



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Tamil Nadu Milk Co-operative Producers Federation, all the Technicians posts have been brought into one category.

6. In fact the petitioner has produced the communication sent to the Managing Director for ratifying the amendment to the existing by-laws and as per the submission of the learned Senior Counsel the ratification has also been obtained. Only because of that the promotion panel has been treated as per the new amendment by considering the date of appointment for calculating the seniority.

7. In view of the same, suitable list is drawn in accordance with the seniority fixed based on the date of the appointment of the Technicians. The cadre post of Executive Engineer has been created as one for every three Technician who are in the feeder category. So, it is submitted by the learned Senior Counsel that as the petitioner's date of appointment is 06.07.2015,



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his name will be found place in the next suitable list. It is further submitted that the petitioner batchmate Sudarsan had got his promotion on 04.12.2019 in accordance with the earlier by-laws in force and hence, the petitioner cannot cite the above reason for setting aside the impugned order.

8. After hearing the rival submissions, it is learnt that the present suitable list for promotion has been drawn by reducing all the Technician of different categories into a few categories the promotion to the post of Executive (Engineer) is being given only in accordance with their date of joining, which is taken in the seniority.

9. Had the earlier ratio fixed through proceedings dated 28.05.2019 in ref.No.6266/SR-II/2018 had continued to be in force, the petitioner, who is the Technician (Plumber) would have been benefited. But the by-laws have got amended in the year 2021 by



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clubbing the various types of Technicians viz., Technician (Operation), Technician (Plumber), Technician (Refrigeration), Technician (Welding), Technician (Store) and Technician (Compressor) into one category, for whom the promotion is given only in accordance with the seniority by taking into consideration their date of joining.

**10.** However, it is pointed out by the learned counsel for the petitioner that even if the date of appointment is taken for consideration for preparing the suitable list, the petitioner who had joined on 06.07.2015 ought to have found place in the suitable candidates list. It is noted in the list containing 65 names, the last person appears to have joined on 08.07.2015 and he is placed against Serial.No.65. The persons who have placed in Serial Nos. 63 and 64 have joined the same date of services on 06.07.2015, as that of the petitioner. In such case, the respondents ought to have considered to include the petitioner's name also in the list of 65



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persons by taking into consideration of his seniority or date of birth incase of there is same date of joining for more than one person.

11. The learned Senior Counsel submitted that though 65 persons are found in the list for promotion to the post of Executive (Engineer) promotion has been given only till Serial No. 47. In such case, the petitioner who has joined on 06.07.2015 and can also be accommodated in the above list, and get his chance in the next promotion, in accordance with his seniority.

12. In view of the above observation, this Writ Petition is **disposed of** with a direction to the respondents to include the name of the petitioner in the suitable candidates list prepared for promotion to the post of Executive (Engineer) in accordance with seniority as his date of joining is on 06.07.2015 and pass appropriate orders on its own merits and in accordance with law within a period of four weeks from the date of receipt of a copy of



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this order. No costs. Consequently, connected miscellaneous petitions are closed.

**10.06.2024**

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



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**R.N.MANJULA, J.**

RM

Order made in  
W.P.(MD)No.5781 of 2023

Dated:  
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