



W.P.(MD)No.8991 of 2024

WEB COM BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.04.2024

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THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.8991 of 2024

1.T.Ramesh Chandrasekar

2.K.Sakthivel

.. Petitioners

Vs.

1. The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Department of Animal Husbandry, Dairying, Fisheries,
Secretariat, Chennai.

2. The Commissioner,
The Department of Milk Production and Dairy Development,
Chennai-51.

3. The Managing Director,
The Tamil Nadu Cooperative Milk Producer Federation,
Chennai-35.

4. The Deputy Registrar (Dairy),
Thanjavur District Cooperative Milk Producers Union Ltd,
Nanjikottai Road,
Thanjavur.



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5. The General Manager,
Thanjavur District Cooperative
Milk Producers Union Ltd,
Thanjavur.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to declare the probation of the petitioners as they have completed the period of 2 years continuously in terms of the bye-law governing their service conditions and by considering the petitioner's representations dated 20.03.2024 and 26.03.2024 respectively.

For Petitioners : Mr.S.Ajmal Khan
for M/s.Ajmal Associates

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate
for R1, R2 & R4

: Mr.K.Prabhu
Standing Counsel for R3 & R5

ORDER

This writ petition has been filed by the petitioners for issuance



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of Writ of Mandamus, directing the respondents to declare the probation of the petitioners as they have completed the period of 2 years continuously in terms of the bye-law governing their service conditions and by considering the petitioner's representations dated 20.03.2024 and 26.03.2024 respectively.

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

3. Heard Mr.S.Ajmal Khan, learned counsel appearing for the petitioners, Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents 1, 2 & 4 and Mr.K.Prabhu, learned Standing counsel for R3 & R5.

4. The General Manager of Thanjavur District Co-operative Milk Producers Union Limited had issued Employment Notification on 29.11.2019, seeking applications for various posts.



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Pursuant to the written examination followed by an interview, the petitioners herein were appointed as Extension Officers on 26.02.2021. On the basis of certain complaints received from the general public relating to the illegal/irregular appointments made in the year 2020-2021, the Commissioner, Department of Milk Production and Dairy Development, Chennai had ordered for an enquiry under Section 81 of Tamil Nadu Co-operative Societies Act, 1983 by an order dated 01.02.2022. In the enquiry it is stated that the appointments were made in an 'improper manner'. Based on the Section 81 enquiry report, the second respondent vide proceedings dated 28.12.2022 has directed the 5th respondent to cancel all the appointments made in the year 2020-2021 at Thanjavur District Co-operative Milk Producers Union Limited. In consequence, the 5th respondent has cancelled the petitioners' appointment vide proceedings dated 03.01.2023. But the copy of the Section 81 enquiry report was not served to the petitioners.



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5. Mr.S.Ajmal Khan, learned counsel for the petitioners submitted that despite the petitioners have satisfactorily completed the required two years of service for declaring probation, the probation has not yet been declared. He further submitted that despite a direction has been given to serve notice before causing any orders as to the cancellation of appointment, so far notice has not been served to the petitioners or any explanation was called for from the petitioners relating to the said report.

6. Therefore, it is clear that the role of the petitioners in these alleged irregularities required to be enquired into and without arriving at such a finding, the appointment orders cannot be cancelled. Though the petitioners are undergoing probation, the impugned order of cancellation of appointment orders clearly reveal those orders have been issued, in view of illegality/irregularity in the recruitment process. Therefore, the impugned order is clearly stigmatic in nature. In case, if there are any procedural irregularities,



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the authorities are always at liberty to issue a notice to the concerned selected candidates and proceeded in accordance with law. For those procedural irregularities, the authorities are also at liberty to initiate appropriate disciplinary action as against the concerned officials responsible for those irregularities. Unless the petitioners are put on notice and an explanation is called for from them, the cancellation of appointment orders could only be construed to be in violation of principles of natural justice.

8. At this juncture, Mr.K.Prabhu, learned Standing counsel submitted that notice as directed by the Court has been served upon the petitioners on 08.04.2024. However, the learned counsel for the petitioner submitted that the show cause notice have not been received so far but the said notice is served only across the table at the time of hearing today.



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9. Reliance was placed to the order of this Court made in **W.P(MD)Nos.10054 of 2023 etc. batch**, dated 01.02.2024 in which similar other petitioners who are suffered from an order of cancellation of appointment got the following relief:

"15.In view of the above said deliberations, this Court is inclined to pass the following orders:

(i)The orders impugned in the writ petitions are set aside and the petitioners are directed to be reinstated in service with all attendant benefits without back wages.

(ii)The authorities are at liberty to issue individual show cause notices to the concerned employees pointing out the allegations, if any, warranting cancellation of appointment that is permissible in law and take further action after receiving explanation from the concerned employees in accordance with law.

(iii)The authorities are at liberty to conduct further enquiry to verify the applications, answer sheets/marks. In case, if they gather further information, they are at liberty to lodge a criminal complaint or initiate disciplinary proceedings as the case may be.

(iv)The respondent authorities are at liberty to scrutinize the educational qualification or the certificates



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and the antecedents of the concerned candidates in accordance with law.

(v)The authorities are also at liberty to lodge a complaint before the Vigilance and Anti Corruption Unit, Virudhunagar, if warranted.

16. All the writ petitions are disposed of with the above said terms. No costs. Consequently, connected miscellaneous petitions are closed ."

9. Since the above observation is applicable to the facts and relief sought in the present case also, I feel that this Writ Petition can also be disposed in similar lines. Accordingly, this writ petition is **disposed of**. The petitioners are at liberty to make all their contentions as to the justification why their appointment should not be cancelled by taking use of the opportunity given to them and also the petitioners are at liberty to make fresh representations to the respondents. No Costs.

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NCC :yes/no
Index :yes/no
Internet:yes/no
PJJ



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To

1. The Principal Secretary to Government,
State of Tamil Nadu,
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Secretariat,
Chennai.
2. The Commissioner,
The Department of Milk Production and Dairy Development,
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3. The Deputy Registrar (Dairy),
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R.N.MANJULA, J.

PJL

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