



*W.P.(MD).Nos.10054 to 10064, 10086, 10425,
10426, 1046 and 10470 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 20.11.2023

ORDER PRONOUNCED ON : 01.02.2024

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).Nos.10054 to 10064, 10086, 10425,
10426, 10465 and 10470 of 2023
and**

**W.M.P(MD).Nos. 8815, 8828, 8824, 8833, 8816, 8823, 8827, 8831,
8817, 8829, 8821, 8854, 8855, 9239, 9249, 9300, and 9306 of 2023 and
WMP(MD).Nos.20811, 20831, 20713 , 20714, 20750, 20755, 20712, 20715,
20718, 20752, 20719, 20751, 20716 & 20720 of 2023**

W.P(MD).No.10054 of 2023

S.Amuthasonia
Deputy Manager (Dairy Bacteriology)
Virudhunagar Milk Producers Co-operative Society Ltd.,
Srivilliputhur 626 125
Virudhunagar District

....Petitioner

Vs

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



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2.The Commissioner

The Department of Milk Production and Dairy Development
Chennai -51

3.The Managing Director

Tamil Nadu Co-operative Milk Producer Federation
Chennai 35

4.The Deputy Registrar (Dairy)

Virudhunagar District Co-operative Milk
Producer's Union Ltd.,
Virudhunagar
Virudhunagar District

5.The General Manager

Virudhunagar District Co-operative Milk
Producer's Union Ltd.,
Virudhunagar
Virudhunagar District

....Respondents

Prayer in WP(MD).No.10054 of 2023: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the second respondent vide his proceedings in Na.Ka.No.1330/N.3/2022-9 dated 28.12.2022 and consequential impugned order passed by the 5th respondent vide his proceedings in Na.Ka.No.25/Panikkuzhu matrum nirvagam/2023 dated 04.01.2023 and quash the same as illegal.

For Petitioner : Mr.M.Ajmalkhan
Senior Counsel
For M/s.Ajmal Associates



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For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.K.Prabu
Standing Counsel for the respondents

COMMON ORDER

The present writ petitions have been filed by various employees of Virudhunagar District Co-operative Milk Producers Union Limited challenging the order of the Commissioner, Department of Milk Production and Dairy Development Department, Chennai dated 28.12.2022 wherein he had recommended for cancellation of appointment order issued to the writ petitioners based upon the enquiry report under Section 81 of the Tamil Nadu Co-operative Societies Act. A consequential order has been passed by the General Manager, Virudhunagar District Co-operative Milk Producers Union Limited cancelling the order of appointment of the writ petitioners. These two orders are under challenge in the present writ petitions.

2.Since a common issue is involved, all the writ petitions are tagged together and a common order is passed.

3.The facts leading to the filing of these writ petitions are as follows:

(i)The General Manager of Virudhunagar District Co-operative Milk Producers Union Limited had issued four Employment Notification on 19.06.2019, 13.10.2010, 17.11.2020 and 22.12.2020 seeking applications for



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various posts. Pursuant to the written examination followed by an interview, the petitioners herein were appointed to various posts between December 2020 to May 2021.

(ii)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.

(iii)An enquiry report was submitted by the Deputy Registrar (Dairy) Virudhunagar Co-operative Milk Producers Union Limited on 29.07.2022. In the said enquiry report, the Enquiry Officer has given a finding that the order of appointments have been issued in violation of the directions issued by the High Court and the Commissioner of Department of Milk Production and Dairy Development. In consequence to the said finding, the Enquiry Officer has recommended for cancellation of all the appointment orders that have been issued in the year 2020-2021. He had also recommended for initiating disciplinary proceedings as against the Manager (Administration). In view of the said recommendation, the Commissioner had issued a direction to the General Manager of Virudhunagar District Co-operative Milk Producers Union Limited on 28.12.2022 to initiate further action.



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(iv)The General Manager through separate orders dated 04.01.2023 had proceeded to cancel the order of appointment issued to various employees. These two orders are under challenge in the present writ petitions.

4.Another set of employees of Tiruchirappalli District Co-operative Milk Producers Union Limited who faced a similar cancellation order have filed W.P(MD).No.501 of 2023 and Batch Cases before this Court. This Court was pleased to dismiss those writ petitions on the ground that there are several irregularities in issuance of notification and the appointment procedure and proceeded to confirm the order of termination passed by the concerned authority. As against the same, the concerned employees have preferred W.A.(MD).Nos.554 to 597 of 2023 Batch cases before the Hon'ble Division Bench. The Hon'ble Division Bench had disposed of those writ appeals by a common order dated 13.10.2023.

5.The Hon'ble Division Bench had an occasion to consider a similar termination order issued in the Madurai Union, Virudhunagar Union and Trichy Union.

6.As far as the Virudhunagar Union is concerned, the Hon'ble Division



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Bench found that the selection on record satisfies the process of recruitment and proceeded to hold that the material unearthed by the authorities is not sufficient enough to point out any gross illegality or fraud or corruption or nepotism so as to accept the case of the authorities that the services of the employees can be terminated without even a show cause notice. Based upon the said findings, the Hon'ble Division Bench was pleased to quash the order of termination and directed to reinstate of those writ petitioners.

7.However, the Hon'ble Division Bench has granted liberty to the authorities to issue show cause notice to individual employees pointing out the allegations and call for an explanation.

8.This Court is inclined to consider the present writ petitions in light of the order passed by the Hon'ble Division Bench dated 13.10.2023 in view of the fact that the present termination orders have also been issued on similar set of facts.

9.Contentions of the learned counsels appearing on either side are as follows:

(i)The learned counsels appearing for the petitioners had contended that they are having qualification as per the special bye-laws and as per the notification issued by the authorities concerned. All of them have applied for the post through registered post pursuant to a notification in newspaper. They



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have undergone a written examination and interview and thereafter, they have been selected. They have been working in the said post for more than one year. Once a candidate is appointed, his appointment order cannot be cancelled pursuant to any enquiry conducted under Section 81 of Tamil Nadu Co-operative Societies Act.

(ii) They have further contended that no proper opportunity was granted to them in the said enquiry nor they were issued a copy of the enquiry report. Their appointment orders have been cancelled without issuing any show cause notice or conducting an enquiry. Therefore, it is clearly in violation of the principles of natural justice.

(iii) Even assuming that there is any irregularity in the mode of appointment of one of the candidates, enmass/en bloc termination orders cannot be issued by the authorities. The allegations made by the respondent authorities are not sufficient enough to cancel the entire selection process. Hence, they prayed for allowing the writ petitions.

10. Per contra, the learned Additional Advocate General appearing for the respondent authorities had contended that there has been gross illegality and irregularity in the recruitment process. Almost 50% of the applications have been rejected without assigning any reasons. The hall-tickets and the



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interview call letters were sent in the last minute which resulted in non- appearance of many candidates.

11.In the written examination, the OMR sheets and the answer sheets of the writ petitioners are missing and they could not be traced. Those who have presented their applications in person alone have been selected. Therefore, the entire recruitment process is tainted with illegality and irregularity and therefore, he prayed to sustain the order of en bloc termination of the employees.

12.I have carefully considered the submissions made on either side and perused the material records.

Discussion:

13.Similarly placed candidates from Virudhunagar Union suffered an order of termination and they were not successful before the learned Single Judge. However, on appeal, the Hon'ble Division in W.A(MD).Nos. 554 to 597 of 2023 and Batch cases by its order dated 13.10.2023 was pleased to hold as follows:

(a)The conduct of the examination is not a matter of suspicion.

(b)For two posts, Bharathidhasan University had conducted the written examination(in which OMR Sheets were not used) and the answer sheets are



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available. For rest of the posts, Gandhigram University had conducted the written examination wherein OMR sheets are retained in the records and the Division Bench has gone through the said OMR sheets.

(c)The respondent authorities were not able to point out any case where the selected candidates have not sent his application through registered post.

(d)Though it is alleged that large number of applications were rejected, the same remains unverified and it continues to be a suspicious alone.

(e)It is not a case of not following communal rotation, but only an error in applying the rotation of vacancy as per the roster in respect of one of the vacancies. The other irregularities pointed out by the respondent authorities are only procedural irregularities and they do not point out any case of wholesale malpractice and egregious fraud.

(f)There are certain procedural irregularities in the recruitment process, but no materials so as to make out any objective criteria to satisfy the Court for a wholesale or egregious fraud in the selection process which would result in en bloc termination of the selected candidates.

14.A perusal of the orders impugned in the writ petitions before this Court also indicate that the termination orders have been issued by the respondent authorities on the allegation which are similar to those allegations



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that were made against the other candidates of the same Virudhunagar Union.

Therefore, this Court is of the considered opinion that the authorities have not made out any case for en bloc/ enmass termination of employees. In case, if there are any procedural irregularities, 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.

Conclusion:

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



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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 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.

01.02.2024.

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

To

<https://www.mhc.tn.gov.in/judis>

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R.VIJAYAKUMAR, J.

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Pre-delivery common order made in

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