



W.P(MD)No.11610 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.11610 of 2023

and

W.M.P(MD)No.10084 of 2023

R.John Sunil,
Manager(Dairying),
Tirunelveli District Cooperative Milk
Producers Union Limited,
Tirunelveli.

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Co-opertive Milk Producers Federation Limited,
Aavin Illam,
Pasumpon Muthuramalingam Salai,
Nandhanam, Chennai – 600 035.

2.The General Manager,
Tirunelveli District Co-operative Milk Producers
Union Limited(Aavin),
Tirunelveli -7.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records on the file of the 1st respondent in connection with the impugned order of transfer passed by him vide his proceedings in Ref.No.319/PE2/2023-2, dated 05.05.2023 and quash the same as illegal, arbitrary in the light of the order passed by this Court in a similar case in



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W.P(MD)No.6199 of 2023, dated 21.04.2023 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.J.Devasenar

* * * * *

ORDER

The instant Writ Petition has been filed by the Manager (Dairy). working in Tirunelveli District Co-operative Milk Producers Union Limited, challenging his order of transfer to District Co-operative Milk Producers Union, Tiruvannamalai, on OD basis.

2.According to the learned counsel for the writ petitioner, as per the proceedings of the Commissioner of Milk Production and Dairy Development, dated 14.03.2023, only the quality assurance/civil/systems wing posts and the cadre strengths were placed at the disposal and control of Tamil Nadu Co-operative Milk Producers Federation Limited (TCMPF). The petitioner being a Manager (Dairy), his services were not brought under the control of TCMPF. It is the further contention of the writ petitioner that unless the District Union concerned and the employee concerned give consent, they cannot be sent on deputation basis to another District Union.



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3.Per contra, learned counsel appearing for the respondents, has filed a counter, contending that after 14.03.2023, another proceeding has been issued by the Commissioner for Milk Production and Dairy Development. As per the said proceeding, permission has been granted to the first respondent herein to issue work arrangement orders on OD basis in respect of employees of one District Co-operative Milk Producers Union to other District Co-operative Milk Producers Union, irrespective of cadre, on need basis, for a period not exceeding six months. Therefore, the services of the writ petitioner have also been placed under the control of TCMPE, namely, the first respondent herein, for effecting work arrangement orders.

4.Learned counsel for the respondents has further contended that the by-laws of the District Union, Tirunelveli, also provide for deputation of the Union employee to another Union. Hence, he prayed for dismissal of the writ petition.

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



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6.The only ground on which the order of transfer of the petitioner from Tirunelveli District Union to Tiruvannamalai District Union is challenged is that the petitioner belongs to Dairy Wing in cadre, which has not been brought under the control of TCMPF.

7.The learned Counsel appearing for the petitioner further submits that considering the family circumstances, he has already relinquished his promotion. In such circumstances any deputation from Tirunelveli to Tiruvannamalai would affect his family. The present order is only an order of deputation from Tirunelveli to Tiruvannamalai and it is not an order of promotion. Therefore, such a contention cannot be raised in this writ petition.

8.A perusal of the proceedings of the Commissioner for Milk Production and Dairy Development, dated 28.03.2023, reveals that all the cadres have been brought under the control of the first respondent for the purposes of issuing work arrangement orders on OD basis, which includes transfer from one District Union to another District Union. It further reveals that the said work arrangement orders could not exceed a period of six months. A perusal of the impugned order reveals that the work arrangement order on OD basis will be in



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force until further orders. Therefore, it is clear that that the impugned proceedings of the first respondent are in violation of the proceedings of the Commissioner for Milk Production and Dairy Development, dated 28.03.2023, which restricts the power of the first respondent to issue work arrangement orders only to an extent of six months.

9.In view of the above said facts, the order impugned in this Writ Petition is set aside and the Writ Petition is allowed. However, the first respondent is at liberty to exercise his powers strictly in compliance with the proceedings of the Commissioner for Milk Production and Dairy Development, dated 28.03.2023, if the situation so warrants.

10.With the above said observations, this Writ Petition stands allowed. No costs. Consequently, the connected miscellaneous petition stands closed.

03.09.2024

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

RJR



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R.VIJAYAKUMAR, J.

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