



W.A.(MD) No.858 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A.(MD) No.858 of 2018

A.Manickam

... Appellant

-vs-

1.The Commissioner of Milk
Production and Dairy Development
Madhavaram
Chennai-600 051

2.The District Collector-cum-
Special Officer
Sivagangai District Co-operative
Milk Producers Union Ltd.,
Karaikudi

3.The General Manager
Sivagangai District Co-operative
Milk Producers Union Ltd.,
Karaikudi

4.The Managing Manager
Sivagangai District Co-operative
Milk Producers Union Ltd.,
Karaikudi

... Respondents



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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 03.04.2018, passed in W.P.(MD) No.2843 of 2011, on the file of this Court.

For Appellant : Mr.T.Ravichandran

For Respondents : Mr.A.Kannan
Additional Government Pleader for R1 & R2
Mr.S.Viswalingam for R3
No appearance for R4

J U D G M E N T

[Judgment of the Court was made by K.RAJASEKAR, J.]

This intra-court appeal is directed against the order dated 03.04.2018, passed in W.P.(MD) No.2843 of 2011 disposing of the writ petition filed by the appellant with certain directions.

2. The appellant / writ petitioner had filed the above writ petition challenging the denial of the relief of regularization service with all monetary and attendant benefits for the services rendered by him on par with his juniors.



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3. According to the appellant, he was originally appointed as Casual Labour (Technical) on 13.03.1987 and thereafter, he was terminated from service for want of vacancy. He raised an industrial dispute in I.D.No. 377 of 1993 before the Labour Court and as per the award dated 31.05.1993, passed by the Labour Court, he was directed to be reinstated in service without backwages. Pursuant to the said award, the appellant was reinstated in service on 22.12.1994 and he was allowed to join during the month of January, 1995. Since he had completed 750 days as Casual Labour (Technical), he sought for regularization of his employment. Though the respondents came forward to regularize the services of the appellant along with eight other persons, based on G.O.(2D) No.131, Animal Husbandry, Dairying and Fisheries (MP.II) Department, dated 28.09.2007, the appellant's services were regularized with effect from 12.03.2001 and he was directed to be posted at the entry level post by the respondents 3 and 4. However, while issuing the posting order, even though the appellant was entitled to be appointed as Technician, he was only posted as Junior Mazdoor, which is not proper and according to him, his juniors, who joined the service along with him during 1987 as NMRs, were appointed as Technicians. Challenging the same, the appellant filed the above writ petition.



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4. The learned Single Judge, by order dated 03.04.2018, after hearing both sides and perusing the materials, has disposed of the said writ petition with the following directions:

- “(i) the petitioner's service as Junior Mazdoor with regularization shall be taken effect from 12.03.2001 as has been specifically directed by the Government in G.O.(2D)No.131, Animal Husbandry, Dairying and Fisheries (MP. II) Department, dated 28.09.2007.*
- (ii) if such regularization of the petitioner as Junior Mazdoor is given effect to from 12.03.2001, if any service benefits including monetary benefits is to be conferred on him, if is not so far conferred, the same shall be conferred and disbursed to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.*
- (iii) it is made clear that since in G.O.(2D)No.131, Animal Husbandry, Dairying and Fisheries (MP. II) Department, dated 28.09.2007, it has been specified that the monetary benefits shall be given to the petitioner from the date of issuance of the said Government Order ie., 28.09.2007, such monetary benefits shall be calculated notionally for the purpose of pension and other retirement benefits and the actual pay benefits shall be calculated and be given to the petitioner from 28.09.2007.”*



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5. Heard the learned counsel for the respective parties and perused the materials available on record.

6. According to the appellant, he was earlier terminated from service and thereafter, as per the award passed by the Labour Court, he was, directed to be reinstated in service by the third respondent. However, on a close scrutiny of the records shows that the appellant was initially appointed as Casual Labour (Technical). He was not appointed in a regular post. Since he had completed the eligible period for regularization, his services were regularized along with eight other persons at the entry level post with effect from 12.03.2001. The appellant had not questioned the said date of regularization. According to the third respondent, on the date of regularization i.e., on 12.03.2001, there was no post of Technician available and for the purpose of accommodating the appellant, he was appointed as Junior Mazdoor, which is also the entry level post and it was the only post available for accommodation. Even though the appellant was qualified to be appointed as Technician, for want of vacancy, he could not have been accommodated in the said post. It is admitted by the third respondent that some of the juniors, who were appointed in the year 1987, have been



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appointed as Technicians. However, the appellant's services were regularized only in the year 2001 and therefore, he could not claim parity on par with his juniors, whose services were regularized in the year 1991 itself. Hence, the claim of parity is not applicable to the case of the appellant. The learned Single Judge, after considering these aspects, has held that the appellant is entitled to only for monetary benefits with effect from 12.03.2001 and directed the respondents to calculate the monetary benefits notionally for the purpose of pension and other retirement benefits and pay the same to the appellant with effect from the date of issuance of the said G.O.(2D) No.131, Animal Husbandry, Dairying and Fisheries (MP.II) Department i.e. 28.09.2007. We find no ground to interfere with the order passed by the learned Single Judge.

7. Accordingly, the writ appeal is dismissed. No costs.

[A.D.J.C., J.] [K.R.S., J.]

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

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