



WA(MD)No.1644 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2024

CORAM :

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**WA(MD)No.1644 of 2024
and
CMP(MD)No.12886 of 2024**

The General Manager,
Madurai District Co-operative
Milk Producers Union Ltd (AAVIN)
Sathamangalam,
Madurai-625010.

... Appellant

vs.

1. K.Veeranan

2. The Secretary to Government,
Animal Husbandry and Fisheries Department,
Fort St.George, Chennai 600 009.

3. The Managing Director,
Tamil Nadu Cooperative Milk Producers
Federation Ltd., Madhavaram (AAVIN)
Chennai 600 051.
Now having office at Chamiers Road,
Nandanam, Chennai 600 035.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the order dated 18.08.2023 made in W.P(MD)No.25442 of 2019.

For Appellant : Mr.J.Devasenar



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For R1 : Mr.P.Mahendran
For R2 : Mr.S.R.A.Ramachandran
Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by **M.S.RAMESH, J.**)

Claiming that the 1st respondent herein / writ petitioner was originally appointed as a Casual Labour in December, 1967 in the Madurai Milk Project Unit and thereafter appointed as Mazdoor in the Tamil Nadu Dairy Development Corporation Limited, on 03.07.1974 till 26.05.1982, he had claimed for counting 50% of his past service for the period between 03.07.1974 and 26.05.1982, in accordance with the decision of the Hon'ble Full Bench of this Court, in the case of **Government of Tamil Nadu vs. R.Kaliyamoorthy** reported in **2019 (6) CTC 705** and G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009. A learned Single Judge of this Court, by order dated 18.08.2023, had allowed the writ petition in W.P(MD)No.25442 of 2019, by placing reliance on a decision made to a similarly placed employee in the orders passed in W.P(MD)No.26682 of 2019 dated 09.12.2022. The said order of the learned Single Judge is assailed in this intra-court appeal.

2. The learned counsel appearing for the appellant submitted that the appellant's past service at the Tamil Nadu Dairy Development Corporation



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Limited, cannot be taken into account, since it is a Corporation which will not be covered under G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009. However, he would admit that such a ground was not raised either in the counter affidavit filed in the writ petition or at the time of final hearing of the writ petition before the learned Single Judge. While that being so, it is now not open to raise such a fresh ground in this writ appeal, which proposition of law has been well settled.

3. Apart from the ground that the service of the 1st respondent in the Tamil Nadu Dairy Development Corporation Limited, cannot be taken into account for counting 50% of his service, no other ground has been raised by the appellant. As such, we do not find any reason to interfere with the well considered order of the learned Single Judge.

4. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(M.S.R, J.) (A.D.M.C, J.)
07.11.2024

Index : Yes / No
Neutral Citation : Yes / No
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M.S.RAMESH, J.
and
A.D.MARIA CLETE, J.

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To

The Secretary to Government,
Animal Husbandry and Fisheries Department,
Fort St.George, Chennai 600 009.

JUDGMENT MADE IN
WA(MD)No.1644 of 2024
DATED : 07.11.2024