

W.P. No. 38262 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 06-08-2025

CORAM

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P No. 38262 of 2016

and

W.M.P. Nos. 32806 & 32807 of 2016

- 1.R. Palanisamy
- 2.K.P. Ravichandran
- 3.K.K. Gurusamy
- 4.L. Subramani
- 5.M. Vivekanandan
- 6.R. Yesurajan
- 7.K. Subramaniam
- 8.S. Joseph Raj

..Petitioners

Vs

- 1.The Commissioner for Milk Production and Dairy Development,
Madhavaram Milk Colony, Chennai.
- 2.The General Manager,
The Erode District Co-Operative Milk Producer's Limited,
Vasavi College Road, Erode.

..Respondents

Writ petition is filed under Article 226 of Constitution of India, praying for issuance of writ of certiorarified mandamus, to call for the records pertaining to the impugned seniority list issued by the 2nd respondent herein dated 08.10.2016 in his proceedings Ref.No.2987/Estt/E1/2014 and quash the same and consequently direct the 2nd respondent to fix seniority based on the technical plant experience and promote and appoint the petitioners herein as Technician (Operator).



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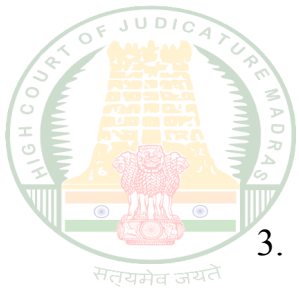
For Petitioners : Mr. R. Nalliyappan

For Respondents : Mr.T. Chezhiyan,
Additional Government Pleader for R1
Mr. R. Balaramesh, for R2

ORDER

The captioned writ petition has been filed seeking issuance of a writ of certiorarified mandamus to quash the seniority list of qualified Senior Factory Assistants / Assistants / Senior Mazdoors prepared for promotion to the post of Technician (Operations), and for consequential directions.

2. The impugned seniority list was issued by the second respondent—Erode District Co-operative Milk Producers' Limited. The case of the petitioners is that their services were regularised as Junior Factory Assistants on 10.01.1990 and they were subsequently promoted as Senior Factory Assistants on 10.01.1992. The petitioners raised an industrial dispute in I.D.No.112 of 2010, seeking a direction to promote and appoint them as Technicians (Operations) with retrospective effect from 1990. The Labour Court, by its award dated 09.04.2015, allowed the claim and directed the second respondent to promote the petitioners as Technicians (Operations) with effect from 1990, together with all consequential benefits. Pursuant thereto, the second respondent published the impugned seniority list.



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3. The grievance of the petitioners is that, in the impugned list, the criterion adopted for determining seniority is the age of the employees, and not the length of service or experience. It is contended that such a method of reckoning seniority is arbitrary, irrational, and discriminatory, thereby violating Articles 14 and 16 of the Constitution of India.

4. Per contra, the learned counsel for the second respondent submits that the petitioners cannot seek fixation of seniority on the basis of the Labour Court's award in I.D.No.112 of 2010, since the said award has already been set aside by this Court in W.P.Nos.37991 to 38001 of 2015. When the very foundation of the petitioners' claim has been negated, the present writ petition is not maintainable and is liable to be dismissed.

5. I have considered the submissions advanced by the learned counsel for both sides and perused the materials placed on record.

6. The petitioners are admittedly employees of the Erode District Co-operative Milk Producers' Limited, a society registered under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. Section 153 of the said Act empowers the Registrar, either suo motu or on application, to call for and



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examine the record of any officer subordinate to him or of the board of a registered society, to satisfy himself regarding the regularity, correctness, legality, or propriety of any decision taken under the Act, Rules, or bye-laws.

7. The seniority list in question has been drawn up strictly in accordance with the bye-laws of the society. The Full Bench of this Court in ***Thamilarasan (R) and Others v. Director of Handlooms and Textiles, Madras and Others*** [W.P.Nos.4124, 4154, 4167 and 6272 of 1966; W.A.Nos.607 and 608 of 1984; decided on 29.03.1989] examined the status of co-operative societies under the Constitution and held as follows (para 23):

“A co-operative society is not a body created by statute, but only a body governed in accordance with the provisions of the statute. Even in the absence of the statute, a co-operative society can have a legal existence. Therefore, applying the tests laid down by the Hon’ble Supreme Court [(1976) 3 SCC 828 : AIR 1976 SC 2216], it is clear that a co-operative society is not a statutory body, but only an institution governed by statutory provisions. Consequently, no writ would lie against a co-operative society under Article 226 of the Constitution of India.”



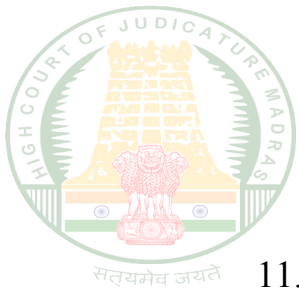
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8. The Full Bench of the Kerala High Court, in a similar vein, held that co-operative societies are not “State” under Article 12 of the Constitution of India, there being no deep and pervasive control of the Government, and hence are not amenable to writ jurisdiction.

9. Applying the ratio of the aforesaid Full Bench decision, it is clear that the second respondent-society is not “State” within the meaning of Article 12 of the Constitution of India, and therefore, is not ordinarily amenable to the writ jurisdiction under Article 226. Even otherwise, the very award of the Labour Court on which the petitioners base their claim for retrospective promotion has already been set aside by this Court in W.P.Nos.37991 to 38001 of 2015. Consequently, the foundation of the writ petition itself does not survive.

10. A careful perusal of the impugned seniority list reveals that the date of first appointment has been taken as the criterion for fixing seniority. The contention of the petitioners that experience in the plant has been taken into account is misconceived. The challenge proceeds on an erroneous assumption, and therefore the writ petition is devoid of merits.



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11. In view of the above discussion, this Court finds no ground to interfere with the impugned seniority list.

12. Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

06-08-2025

Index : Yes/No

Neutral Citation : Yes/No

AT

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HEMANT CHANDANGOUDAR, J.

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