



W.P.(MD)No.2878 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2025

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THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.2878 of 2019

and

W.M.P.(MD)Nos.2168 & 2169 of 2019

M.Kannan

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Cooperative Milk Producers'
Federation Ltd., No.2, Pasumpon Muthuramalingam Salai,
“Aavin Illam”, Chennai 600 035.

2.The Director,
Milk Production & Dairy Developments
Department, Madhavaram Milk Colony,
Chennai 600 051.

3.The General Manager,
Thanjavur, District Cooperative Milk
Producers' Union Ltd.,
Nanjikottai Road, Thanjavur 613 006.

4.The Deputy Registrar (Dairying)
Old Collector Office Campus,
Court Road, Thanjavur.

3.Selva Ganapathy

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records



W.P.(MD)No.2878 of 2019

relating to the impugned order of the third respondent herein in Na.Ka.No.810/Admin/2013 dated 15.12.2018 and quash the same and consequently direct the respondents 1 to 4 herein to promote the petitioner herein as Manager from 03.07.2013 with all attendant benefits.

For Petitioner : Mr.K.Appadurai
For R2 & R4 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.
For R1 & R3 : Mr.K.Prabhu
For R5 : No Appearance.

ORDER

Under assail is the order of the third respondent dated 15.12.2018 and consequently to direct the respondents 1 to 4 herein to promote the petitioner herein as Manager from 03.07.2013 with all attendant benefits.

2.It is the case of the petitioner that he was appointed as Junior Assistant in the Thanjavur District Cooperative Milk Producers Union Ltd., on 15.02.1988. He was promoted to the post of Executive (Office) only with notional effect from 01.10.2010 and monetary benefit from 07.02.2012. As per the third respondent proceedings dated 26.12.2012 and 02.07.2013, when he was holding the post of Deputy Manager



W.P.(MD)No.2878 of 2019

(Office) from 26.12.2012 and holding the post of Manager (Admin & IR)

respectively, he was promoted to the post of Deputy Manager(Office)

from 12.02.2016 and continuously holding the post of Manager (Admin

& IR) and discharged the duties until the impugned order passed by third

respondent. There are two vacancies in the post of Manager since 2011.

In pursuance of Commissioner for Milk Production & Dairy

Development letter dated 12.02.2016, Thiru.S.Gnasundaram and

S.Prabakarna were promoted tot he post of Extension Officer Grade-I

and the petitioner was promoted to the post of Deputy Manager (Office)

on the same day. The petitioner and the above said officers were given

relaxation from three years in the post of Deputy Manager (Office). The

above said two officers were already promoted in May 2018, but the

petitioner was not promoted to the post of Manager (Admin & IR) till

date, even after necessary relaxation was given by the third respondent.

Therefore, the petitioner had sent a representation dated 25.08.2017 to

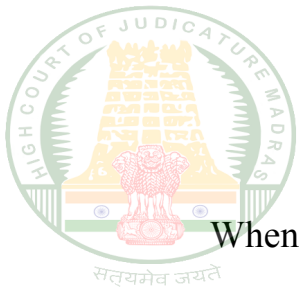
the third respondent, since the petitioner rendered more than three years

of service in the post of Deputy Manager (Office) as additional charge

and also discharging the duties of Manager (Admin & IR) as further

additional charge. The third respondent Union also passed a resolution

to consider the petitioner's name as Manager (Admin & IR) of the Union.



W.P.(MD)No.2878 of 2019

When the petitioner was expecting promotion after due approval and compliance of all formalities, the impugned order came to be passed stating that the petitioner was relieving from the post of Manager (Admin & IR) and fifth respondent was posted in the place of the petitioner to work as Manager (Admin & IR). Hence, the writ petition.

3.The learned counsel appearing on behalf of the petitioner would submit that the post of Manager (Admin & IR) is a promotional post, which can be filled up only in accordance with law and as per the Rules and procedures. He would further submit that there is no provision to appoint a person in the promotional post on administrative reason. Hence, the reason cited in the order impugned is irregular, illegal and without any authority of law. When the petitioner is eligible to hold as Manager (Admin & IR) as additional charge, he has to be promoted to the said post, since approval was already obtained from the second respondent. He would also submit that the petitioner was retired from service on 31.07.2023 and he is entitled to the post of Manager from 03.07.2013 to 15.12.2018. Further, he would submit that there is no reason assigned in the order impugned and the same is liable to be set aside.



W.P.(MD)No.2878 of 2019

WEB COPY

4.Per contra, the learned counsel appearing for the first and third respondents and the learned Additional Government Pleader appearing for the second and fourth respondents would submit that due to administrative reasons, the fifth respondent was ordered to look after the post of Manager (Admin & IR) as additional charge vide proceedings dated 15.12.2018. The petitioner was holding the post of Manager (Admin & IR) as only additional charge and he has no right to claim benefits from 03.07.2013 to 15.12.2018 to the post of Manager (Admin & IR).

5.This Court considered the submissions made on either side and perused the materials available in the record.

6.It is an admitted fact that the petitioner was retired from service on superannuation on 31.07.2023. It is pertinent to mention that considering the petitioner's representation dated 25.08.2017 for promotion, a subject was placed before the Personal Committee meeting was held on 09.05.2018 and resolution had been passed as detailed below:-



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W.P.(MD)No.2878 of 2019

Thiru.M.Kannan has not completed 3 years of service in the post of Deputy Manager (Office) for promoting him to the post of Manager (Admin & IR). For considering his request for promotion proposal sought for getting relaxation may be sent to Director for Milk Production and Dairy Development Department and after getting necessary approval, this subject may be placed in the upcoming Personnel Committee meeting for consideration.

It is pertinent to mention that as per Na.Ka.No.10412/2018 dated 28.08.2018, the Director has relaxed the three years experience required for the purpose of promotion, as recommended by the third and fourth respondents.

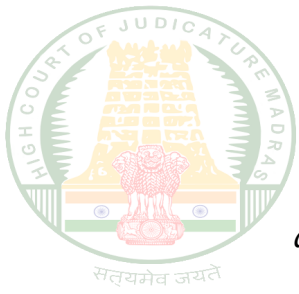
7.It is stated in the counter affidavit filed by the third respondent in paragraph No.3 that,

3.It is submitted to state that our By-law delegate the powers to Personnel Committee which consist of the following persons

- i) Chairman of the Union*
- ii) A representative of the State Government*
- iii) A representative of the NDDB*
- iv) General Manager of the Union*

The business of the above committee is as follows.

a.to formulate and implement personnel policies such



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W.P.(MD)No.2878 of 2019

as selection, promotion appointment, placement, termination and other service conditions.

b.to decide a strength of the different categories of employees qualification and experience, pay scales, allowances, perquisites etc.

However, all the resolutions passed by the Personnel Committee should be placed before the board for further approval. Subsequent to the Board's approval, necessary proposal should be submitted to the Director for Milk Production and Dairy Development through the Deputy Register of Dairying, Thanjavur for concurrence. Without prior permission of Director for Milk Production and Dairy Development no one shall be promoted to the next higher level post.

It is pertinent to mention that the petitioner was holding the promotional post of Manager (Admin & IR) as additional charge, no one was promoted at that point of time. Hence, after recommendation by third and fourth respondents are exempting three years of service by the first respondent, the writ petitioner can be considered for the post of Manager (Admin & IR) by the third respondent, if otherwise, there is no legal impediment. Since, it is not shown in the service rule of the third respondent District Co-operative Milk Producers Union, there is no provision to appoint a person in the promotional post as administrative reason.



W.P.(MD)No.2878 of 2019

WEB COPY

8. There is no details in the order impugned, in which it has been stated that due to administrative reasons, the fifth respondent was ordered to look after the post of Manger (Admin & IR), which is not mention any service rules applicable to the petitioner. The petitioner is retired from service on 31.07.2023. It is settled proposition that fixation of pay scales and providing promotion is purely authority/department concern and hence, the Court should not interfere with the same. Granting promotion, while taking a decision in the matter several relevant factors some of which, are to be considered by concerned authority.

9. The petitioner is at liberty to make a fresh representation if required, within a period of three weeks from the date of receipt of a copy of this order. Thereafter, the third respondent is directed to consider the same and pass an order, in accordance with law, if there is no legal impediment, within a period of four weeks from the date of representation.



W.P.(MD)No.2878 of 2019

10. With the above observations, this writ petition is disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

NCC : Yes / No

14.02.2025

Index : Yes / No

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W.P.(MD)No.2878 of 2019

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W.P.(MD)No.2878 of 2019

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