

**V. Appavoo Vs. The Commissioner for Milk Production and Dairy Development and Another**

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**Court :** Chennai Madurai

**Decided On :** Feb-24-2016

**Judge :** A. Selvam

**Appeal No. :** W.P(MD)No. 8784 of 2008 & M.P(MD)No. 1 of 2008

**Appellant :** V. Appavoo

**Respondent :** The Commissioner for Milk Production and Dairy Development and Another

**Judgement :**

(Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus by calling for the records of the second respondent issued in his proc. Na.Ka.No.2560/Nir/08-2 dated 18.09.2008 and quash the same and further direct the respondents to regularize the services of the petitioner with effect from the date of his initial appointment (i.e.) from 16.08.1987 and further direct them to give all services and monetary benefits.)

1. This Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus by way of calling for the records of the second respondent pertaining to the order passed in Na.Ka.No.2560/Nir/08-

2 dated 18.09.2008 and quash the same and also direct the respondents to regularize the service of the petitioner with effect from 16.08.1987, date of his appointment and also direct the respondents to give all monetary benefits.

2. It is averred in the petition that the petitioner has been appointed as mazdoor in Thanjavur District Co-operative Milk Producers Union Limited and since then he has put his serve till his retirement. The second respondent by way of passing the impugned order dated 18.09.2008 has rejected the claim of the petitioner to regularise his service. Under the said circumstances, the present petition has been filed for getting the relief sought therein.

3. The learned counsel appearing for the petitioner has repeatedly contended that the petitioner has been recruited as a mazdoor by the second respondent on 16.08.1987 and since then he has done his service till his retirement and during the tenure of office he made a representation to the second respondent so as to regularise his service, but the second respondent by way of passing the impugned order has rejected the claim of the petitioner and under the said circumstances the present petition has been filed for getting the relier sought therein.

4. The learned counsel appearing for the second respondent has contended that the petitioner has been recruited on the basis of daily wages and further on the date of his appointment he crossed the required age limit and since the petitioner has been appointed on the basis of daily wages and also crossed age limit, the request of the petitioner cannot be accepted and under the said circumstances the second respondent has passed the impugned order and the same need not be quashed.

5. The entire argument putforth on the side of the petitioner is based upon G.O.Ms.No.91, dated 13.04.1994. By virtue of the said Government Order, relaxation in age limit has been given upto five years in the case of Backward Community.

6. The second respondent has stated in his order to the effect that the petitioner has been recruited as a mazdoor on daily wage basis and even on the date of appointment he crossed age limit and therefore his service cannot be regularised.

7. It is seen from the records that the petitioner has filed a petition before the Labour Court, wherein also it has been clearly held that the Management has to give re-employment to the petitioner only on the basis of daily wages.

8. Considering the fact that the petitioner has not been appointed on regular basis and also considering that the petitioner has been appointed merely on the basis of daily wages, G.O.Ms.No.91 is not at all applicable to the petitioner.

9. The specific claim made on the side of the petitioner is that service has to be regularized from the date of his appointment. As pointed out earlier, the petitioner has been appointed only on the basis of daily wages and his appointment is not on permanent basis and therefore the claim of the petitioner cannot be accepted. Further it has already been pointed out that the benefits available in G.O.Ms.No.91 are not applicable to the case of the petitioner. The second respondent after considering the nature of appointment of the petitioner and also after considering that even on the date of his appointment he has crossed his age limit has rightly passed the impugned order. In view of the discussion made earlier, this Court has not found any force in the contentions put forth on the side of the petitioner and altogether the present writ petition deserves to be dismissed.

10. In fine, this Writ Petition is dismissed without costs. Consequently, connected Miscellaneous Petition is dismissed.

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