

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date:06.08.2019

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

W.P.No.23085 of 2019 and
W.M.P.No.22793 of 2019

F.Helen Rachel

...Petitioner

Vs.

1.The Chairman,
St. John Ambulance (India),
Tamil Nadu State,
No.1 & 2, Mayor V.R.Ramanathan Road (East)
Chetput, Chennai - 600 031.

2.The Secretary,
St. John Ambulance (India),
Tamil Nadu State,
No.1 & 2, Mayor V.R.Ramanathan Road (East)
Chetput, Chennai 600 031.

3.The Enquiry Officer,
St. John Ambulance (India),
Tamil Nadu State,
No.1 & 2, Mayor V.R.Ramanathan Road (East)
Chetput, Chennai 600 031.

...Respondents

Prayer: Petition filed under Article 226 of Constitution of India, for issuance of Writ of Certiorari to call for the records relating to the impugned order of punishment for dismissal from service issued by the second respondent dated 01.03.2019 and the order of rejection of Appeal issued by the first respondent dated 15.04.2019 and to quash the same.

For Petitioner : Mr.Sankaran G.

ORDER

The writ petition has been filed against the action taken against the petitioner dismissing him from service by the 2nd respondent and confirmation of the dismissal order in the Appeal.

2.According to the petitioner, he was appointed as a temporary Clerk on 30.05.1988 in the respondent organization viz., St. John Ambulance (India) and the staff of the respondent

is governed by the Tamil Nadu Government Service Conduct Rules as well as the Tamil Nadu Government Service (Discipline and Appeal) Rules. He was promoted to the post of Office Clerk on 01.03.1991 and further promoted to Record Clerk in the year 1994 and as Junior Assistant in 1995 and as Assistant in 1999. Finally, he was promoted to the post of Superintendent on 01.08.2008.

3.The petitioner, while he was in service as Superintendent, was issued with the charge memorandum on 22.12.2019 containing charges for certain alleged acts of misconduct under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, 1979 and the enquiry officer conducted an enquiry and on the basis of the report of the enquiry officer, the petitioner was dismissed from service vide order dated 01.03.2009. Thereafter, an appeal was preferred to the 1st respondent on 23.03.2019 and the 1st respondent rejected the appeal on 15.04.2019 confirming the punishment of dismissal from service. The said action is the subject matter of challenge in the present writ petition.

4.Although it is averred that the staff of the respondent is governed by Tamil Nadu Government Service Conduct Rules and also Tamil Nadu Government Service (Discipline and Appeal) Rules, in the entire affidavit nowhere it is stated as to how the respondent could be treated as State within the meaning of Article 12 of the Constitution of India. Admittedly, the respondent is a private company and only because they have adopted the Service Rules, as applicable to the Government servant, the same would not become amenable to writ jurisdiction of this Court under Article 226 of the Constitution of India.

5.The only contention raised on behalf of the petitioner in order to bring the issue within the writ jurisdiction of this Court is that the President of the respondent organization, His Excellency The Hon'ble Governor of Tamil Nadu and the Organization has Ex-officio Members viz., Collector of Chennai, Commissioner of Police, Director of Medical Education. This Court is unable to appreciate as to how the association of certain Government officials and also His Excellency The Hon'ble Governor of Tamil Nadu as honorary basis can change the character of the respondent from private to one of public organization.

6.The respondent organization is completely a private organization which functions within its own administration and rules. The State has no control or supervision in the functioning of the respondent organization. Even though some of the State officials are honorary members of the respondent organization, the respondent organization, by no stretch of legal standard, can be made amenable to the jurisdiction of this

Court under Article 226 of the Constitution of India. Even otherwise, it is always open to the petitioner in case he is aggrieved by any action of the respondent organization to resort to any alternative legal remedy available to him and challenge the impugned action by the respondent organization. It is certainly not open to the petitioner to knock the doors of this Court as against the impugned action of the private organization like the respondent herein. Only because of the adoption of Government Conduct Rules and Discipline Rules, the status of the respondent organization would change and would be amenable to the writ jurisdiction of this Court under Article 226 of the Constitution of India.

7. For the above said reason, this Court finds that the writ petition is not maintainable as against the action taken by the respondent organization which is purely a private organization and the Writ Petition shall stand dismissed as not maintainable. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

Sgl
To

1. The Chairman,
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+1 CC to Mr.G. Sankaran, Advocate sr 67448.

W.P.No.23085 of 2019

EV(CO)
SP(13/09/2019)