



W.P. No. 8848 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 8848 of 2023

and

W.M.P. No. 9005 of 2023

V.Muthuramalingam

... Petitioner

-VS-

1. The State of Tamil Nadu Rep. by its
Principal Secretary to Government
Animal Husbandry, Dairying, Fisheries
and Fishermen Welfare Department
Fort St. George
Chennai – 600 009.
2. The Commissioner and Director
Animal Husbandry and Veterinary Services
Veterinary Hospital Complex
Nanthanam, Chennai – 600 035.
3. The Regional Joint Director
Animal Husbandry Department
Old Collectorate
Thanjavur – 613 001.
4. The Deputy Director
Exotic Cattle Breeding Farm
Eachankottai Post
Orathanadu Taluk
Thanjavur – 614 902.



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5. The Assistant Director
Animal Husbandry Department
Old Collectorate
Thanjavur – 613 001.
Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent dated 05.01.2022 made in G.O. (2D) No. 01 Animal Husbandry, Dairying, Fisheries and Fishermen Welfare (AH6) Department and quash paragraph 7 relating to appointment as Animal Husbandry Assistant dated 21.02.2007 and paragraph 8 relating to regularization of Animal Husbandry Assistant dated 10.07.2013 of the Government Order and consequently directing the Respondents herein to regularize the Petitioner's service as Animal Husbandry Assistant on par with the Petitioner's juniors as per proposal of the Second Respondent made in Na.Ka. No. 58646/N2/2012 dated 21.12.2012 and G.O. Ms. No. 17, Animal Husbandry, Dairy and Fisheries Department dated 03.02.2004.

For Petitioner : Mr. S.Gunasekaran

For Respondents : Mr. B.Vijay
Additional Government Pleader

ORDER

Heard Mr. S.Gunasekaran, Learned Counsel for the Petitioner, and Mr. B.Vijay, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the



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pleadings of the parties.

2. The Writ Petition has been filed challenging the Order in G.O. (2D) No. 01, Animal Husbandry, Dairying, Fisheries and Fishermen Welfare (AH6) Department dated 05.01.2022 issued by the First Respondent and to consequently direct the Respondents to regularize the service of the Petitioner as Animal Husbandry Assistant on par with his juniors as per the proposal made by the Second Respondent in Na. Ka. No. 58646/N2/2012 dated 21.12.2012 and G.O. Ms. No. 17, Animal Husbandry, Dairy and Fisheries Department dated 03.02.2004 issued by the First Respondent.

3. It is not in dispute that the offices of the Third to Fifth Respondents are situated within the territorial limits of jurisdiction of the Madurai Bench of this Court. The only reason stated by the Petitioner for approaching the Principal Seat of this Court instead of Madurai Bench is that the offices of the First and Second Respondents are located in Chennai. There cannot be any doubt that the First to Third Respondents exercise powers for the whole of the State of Tamil Nadu, but it cannot mean as if the cause of action has arisen within the territorial limits of jurisdiction of the Principal Seat of this Court at Chennai. Even if it is assumed that a part of cause of action has arisen within the territorial limits of jurisdiction of this Court, the principle of *forum conveniens*



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would come into play as held by the Division Bench of this Court in **C.Ramesh**

-vs- Director General of Police (Order dated 06.06.2013 in W.P. (MD)

No. 8790 of 2013), as follows:-

“7. *Exercise of jurisdiction is based on arising of the cause of action, either in whole or in part in any one of the said Revenue Districts. [See RAJASTHAN HIGH COURT ADVOCATES' ASSOCIATION Vs. UNION OF INDIA AND OTHERS (2001 (2) SCC 294) and B.STALIN Vs. THE REGISTRAR, SUPREME COURT OF INDIA AND OTHERS (2012 (3) LW 489 (FB))].*

8. *It should be remembered that the part of cause of action must be substantial in nature. The territorial jurisdiction of the Court is linked with the place of accrual of cause of action. [See U.P. RASHTRIYA CHINI MILL ADHIKARI PARISHAD, LUCKNOW Vs. STATE OF U.P. AND OTHERS (1995 (4) SCC 738)].*

9. *Referring to KUSUM INGOTS & ALLOYS LTD. Vs. UNION OF INDIA (2004 (3) CTC 365), a Full Bench of this Court in*



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SANJOS JEWELLERS Vs. SYNDICATE BANK, BANGALORE

WEB COPY AND OTHERS (2007 (5) CTC 305), held as under:-

"30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the Doctrine of forum conveniens. [See BHAGAT SINGH BUGGA Vs. DEWAN JAGBIR SAWHNEY, AIR 1941 CAL 670 : ILR (1941) 1 CAL 490; MADANLAL JALAN Vs. MADANLAL, 1945 (49) CWN 357: AIR 1949 CAL 495; BHARAT COKING COAL LTD. Vs. JHARIA TALKIES & COLD STORAGE (P) LTD., 1997 CWN 122; S.S.JAIN & CO. Vs. UNION OF INDIA, 1994 (1) CHN 445, and NEW HORIZONS LTD. Vs. UNION OF INDIA, AIR 1994 DEL 126]."



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WEB COPY

10. *Question of entertaining a lis disclosing a cause of action or part of cause of action is based on the averments contained in the affidavit etc. At that stage, the truth or otherwise of the averments need not be gone into. But, there must be necessary averments disclosing a cause of action, so that the Court can take cognizance of/entertaining the lis exposed in the petition for taking further action. [See OIL AND NATURAL GAS COMMISSION Vs. UTPAL KUMAR BASU AND OTHERS (1994 (4) SCC 711)].*

11. *A Court cannot arrogate/assume/confer upon itself a jurisdiction-territorial jurisdiction, when it has no such jurisdiction. Lack of jurisdiction to entertain a matter goes to the root of the matter, otherwise whatever action taken or orders passed by the Court becomes a nullity, it is non est and of no consequence at all resulting in wasting of precious public time. Courts are barred from indulging in hypothetical and academic exercises.”*

Having regard to the aforesaid legal position, this Court does not find any



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justification to entertain this Writ Petition. Though obvious, it is made clear that no view has been expressed by this Court on the merits of the controversy involved in the matter.

In fine, the Writ Petition is dismissed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Maya

Index: Yes/No

Neutral Citation : Yes/No

Note: Issue order copy by 31.05.2023.

To

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Animal Husbandry, Dairying, Fisheries
and Fishermen Welfare Department
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P.D. AUDIKESAVALU, J.

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