



W.P.(MD).No15155 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No15155 of 2021

A.S.Chinnasshami

... Petitioner

Vs.

1.The State of Tamilnadu,
Represented by Secretary to
Government,
Food and Co-operation and Consumer
Department,
Fort St. George Secretariat,
Chennai-600 009.

2.The Registrar,
Co-operative Societies,
N.V.N.Natarajan Maaligai,
Kilpauk, Chennai-10.

3.The Regional Joint Registrar,
Office of the Regional Joint
Registrar of Co-operative
Societies,
Madurai Region, Madurai.

4.The Deputy Registrar,
Co-operative Societies,



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Usilampatti Circle,
At present Thirumangalam,
Madurai District.

5.A.Jeyapandian,
S/o. Iyer devar,
M.D.SPL 121, Pasukaran patti,
Primary agricultural credit
Co-operatives Society,
Pasukaran patti, Boothipuram post,
Usilampatti Taluk,
Madurai District-625 532.

... Respondents

*(R5 is impleaded vide court order dated 02.07.2024 made in
W.M.P.(MD)No.13945 of 2021 in W.P.(MD)No.15155 of
2021)*

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to dispose petitioner's representation dated 29.01.2021 by initiating an appropriate action regarding the illegal appointment of the A.Jayapandian and pass an appropriate order on merits in accordance with law after affording all sort of opportunities to the parties.

For Petitioner	: Mr.V.R.Venkatesan
For R-1 to R-3	: Mr.S.Kameswaran, Government Advocate
For R-4	: Mr.A.K.Manikkam
For R-5	: Mr.K.K.Kannan



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ORDER

The prayer of the writ petition is as follows:

This writ petition has been filed seeking direction to the respondents 1 and 2 to dispose petitioner's representation dated 29.01.2021 by initiating an appropriate action regarding the illegal appointment of the A.Jayapandian and pass an appropriate order on merits in accordance with law after affording all sort of opportunities to the parties.

2. The brief facts which are necessary for the disposal of this Writ Petition are as follows:-

The petitioner was appointed as Salesman in the year 1985. Two other employees, namely, A.Jeyapandian and K.Chandrasekaran, who are working as Clerks in the Bank in which the petitioner was working, were appointed on 04.05.1998 and 05.02.1991 respectively. Both of those employees did not possess the requisite qualification to the post that they were holding at the time of their appointment. Later, Thiru.A.Jeyapandian acquired the qualification of +2 and Co-operative training, hence, his appointment is not valid and the same



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is irregular. Since A.Jeyapandian and K.Chandrasekaran came to be appointed without adequate qualification during the period from 09.07.1980 to 11.03.2001, their services were not regularized. In this regard, the petitioner had sent a representation dated 07.08.2009 to the respondents stating that in spite of the rejection of proposal for approval of appointment of both the aforesaid persons, they are continuing in the post of clerk, thereby disbursement of salary is being objected in audit as well. It is also alleged by the petitioner that several criminal cases are pending against the aforesaid A.Jeyapandian, in view of the same, yet again on 20.01.2021, the petitioner had sent a representation to the respondents 1 to 4, seeking to initiate appropriate action regarding the illegal appointment of A.Jeyapandian. Since the same was not considered by the respondents 1 to 4, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner submitted that, the appointment of A.Jeyapandian itself is *per se* irregular and only subsequent to his appointment, he had acquired the requisite qualification for the post of clerk in Co-operative Society. That apart, he has been implicated in several criminal cases, despite the same, no departmental proceeding has been initiated as



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against him and he is still continuing in service and he should be removed from service. In view of the same, the learned counsel appearing for the petitioner pressed for allowing the writ petition.

4. Per contra, the learned Government Advocate appearing for the respondents 1 to 3 submitted that, the third party has no right to seek departmental enquiry as against an employee.

5. Heard the learned counsels on either sides. Carefully perused the materials available on record.

6. The matter in hand is no more *res integra* and it is an established principle of law that in service jurisprudence the departmental proceedings are exclusively the internal affair between the employer and the employee, which is fully within the domain of the department concerned. Thus, in service matters, at the first instance of a third party disciplinary action cannot be initiated as against the employee.



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7. The Hon'ble Apex Court in the case of ***Ranjith Prasad .vs. Union of India and others reported in (2000) 9 SCC 313*** has dealt with a similar case, the relevant portion which is applicable to the facts and circumstances of this case is extracted as follows:

“9. ... In respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a writ petition in the High Court or in this Court. Disciplinary action against an employee is taken by the Government for various reasons principally for “misconduct” on the part of the employee. This action is taken after a “domestic” inquiry in which the employee is provided an opportunity of hearing as required by the constitutional mandate. It is essentially a matter between the employer and the employee, and a stranger, much less a practising advocate, cannot be said to have any interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of Court.”



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8. In yet another case which has been dealt by me in **W.P.(MD)No.28162 of 2023 dated 04.03.2024**, I have passed a similar order and the relevant portion of the same is extracted as follows:

“9.I am of the considered view that the petitioner is a third party who cannot claim to initiate departmental action as against the 4th respondent and it is for the employer to take appropriate departmental proceedings or action against an employee in case of misconduct on the part of the employee. The petitioner being a third party cannot maintain the writ petition invoking Article 226 of the Constitution of India in service matters seeking a Mandamus to take action against the employee or officials.”

9. Obviously, even in the instant case, the petitioner is a stranger as to the appointment of A.Jeyapandian and C.Chandrasekaran is concerned. Even if any irregularity is prevailing as far as the appointment of those persons are concerned, it is for the employer to take a final call and the petitioner has no *locus standi* to press for initiating departmental action as against the aforesaid A.Jeyapandian and C.Chandrasekaran. Hence, this writ petition fails.



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10. Accordingly, this writ petition stands dismissed. There shall be no order as to costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

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L.VICTORIA GOWRI, J.

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