



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-01-2026

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

**WP No. 43533 of 2016
& WMP No.9127 of 2018**

1. Ex Naik Sivalingam,
S/o.Chinnasamy,
No.310, Valluvar Nagar,
Collectorate Post, Dharmapuri District

Petitioner(s)

Vs

1. Union of India, Rep by
The Chairman,
Unit Run Canteen,
Station Headquarters,
Fort St. George,
Chennai-600009.

2.Station Commander
Station Headquarters, Fort St. George,
Chennai-600009.

3.Deputy Director General,
Quartermaster General Branch,
Canteen Services,
Ministry of Defence,
Army Headquarters,
New Delhi- 110 001.

Respondent(s)

**PRAYER**

This writ petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the records in No.2010/ Case file/ Stn Can/ Termination/ 2013 dated 13.03.2013 on the file of the 2nd Respondent herein and quash the same and direct the Respondents 1 and 2 to reinstate the petitioner into service with all consequential service benefits like seniority, arrears of salary with compound interest at the rate of 12% per annum.

For Petitioner(s): M/s.S.Sadasharam

For Respondent(s): M/s. A.R. Sakthivel, Spl.PC

ORDER

The challenge in this writ petition is to the order dated 13.03.2013 passed by the second respondent. By the said order, the petitioner, who was working as a Billing Clerk in the Unit Run Canteen (URC) managed by the second respondent, was terminated from service on the ground that he had remained unauthorisedly absent for a period of 90 days.

2. The learned counsel for the petitioner submitted that the termination of the petitioner from service, without conducting an enquiry as contemplated under Rule 22 of the Rules, namely, “The Rules Regulating the Terms and Conditions of Civilian Employees of Air Force Unit Run Canteens (URCs)/Departmental Canteens Paid out of Non-Public Funds”, is arbitrary,



discriminatory, and violative of the principles of natural justice. It was therefore contended that the impugned order is liable to be set aside and that the petitioner is entitled to reinstatement with all attendant benefits.

3. In response, the learned counsel for the respondents submitted that the Unit Run Canteen (URC) in which the petitioner was employed is not run out of public funds but out of funds contributed by individuals in their personal capacity. Consequently, the URC does not fall within the definition of “State” under Article 12 of the Constitution of India. It was further submitted that the URC is neither a statutory body nor an instrumentality of the State and, therefore, the present writ petition is not maintainable. In support of this contention, reliance was placed on the decision of the Delhi High Court in *Rajesh Tiwari v. Union of India and others*, W.P.(C) No.2768 of 2011, decided on 10.09.2013.

3. The submissions advanced by the learned counsel appearing on either side have been duly considered.

4. From a perusal of the records and the submissions made, it is evident that the Unit Run Canteen in which the petitioner was working is a private establishment created for the benefit of Army personnel. The officers pool their resources to establish and run the canteen to provide catering and allied



services. It is, therefore, a purely private venture, and the mere involvement of Army officers in establishing and running the canteen does not confer upon it the character of “State” within the meaning of Article 12 of the Constitution of India. A similar view has been taken by the Hon’ble Supreme Court, holding that employees of CSD Canteens are not employees of the State or its instrumentalities. The Division Bench of the Delhi High Court, in W.P.(C) No.2768 of 2011 dated 10.09.2013, at paragraph 6, has held as follows:

“6. From the rival versions it emerges that AFORDS is a non- juristic entity. It is a private creation of Air Force officers who have been given accommodation outside the Air Force stations. These officers pool their resources and provide a transport and engage private help or depute their personnel staff, privately engaged, and for which apart from wages paid as domestic helps, some more many is collectively paid to fetch rations from the Air Force stations and deliver the weekly quota in the houses of the officers. The venture is purely a private venture. Merely because there is an interface with the Air Force Authorities would not mean that it is a venture having public character. The distribution system cannot be called an instrumentality of the State. It is not created by the State. It is not funded by the State. There is no deep and pervasive control of the State. No State function is performed by the Distribution System. The Distribution System did not take over what was therefore performed by the State.”

5. A Division Bench of the Kerala High Court at Ernakulam, in W.A. No.1759 of 2013, has held that a USD Canteen can be treated as an instrumentality of the State within the meaning of Article 12 of the Constitution



of India. However, in the said case, the Indian Naval Canteen Service was under the control of the Indian Navy, and Section 3(12A) of the Navy Act, 1957 defines a “Naval Establishment” as an establishment belonging to or under the control of the Indian Navy, whether within or outside India. It was further held that the Indian Naval Canteen Service owed its existence to an order passed by the Government.

6. In the present case, the existence of the canteen is neither traceable to any Government Order nor founded upon any statutory provision. The canteen has been established by Army officers out of their own funds for the welfare of ex-servicemen and to serve Army officers.

7. In the light of the foregoing discussion, I am of the considered view that the canteen run by the second respondent, in which the petitioner was employed, is not an instrumentality of the State so as to fall within the ambit of the definition of “State” under Article 12 of the Constitution of India. Consequently, the present writ petition is not maintainable and is liable to be dismissed.

8. Accordingly, the writ petition is dismissed. However, the petitioner is reserved the liberty to work out his remedies by challenging the order of



termination before the appropriate forum. There shall be no order as to costs.

Consequently, the connected miscellaneous petition is closed.

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Index:Yes/No

Neutral Citation:Yes/No

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HEMANT CHANDANGOUDAR, J.
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