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# புதுச்சேரி மாநில அரசிதழ்

## La Gazette de L'État de Poudouchéry The Gazette of Puducherry

அதிகாரம் பெற்ற வெளியீடு

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GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT

(G.O. Rt. No. 15/AIL/Lab./S/2025,  
Puducherry, dated 17th February 2025)

NOTIFICATION

Whereas, an Award in I.D (L) No. 09/2019, dated 11-07-2024, of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of dispute between the M/s. Puducherry State Co-operative Bank Limited (No. 78), Puducherry and Bharata Makkal Sasana Urimai Iyakkam, Puducherry, over refusal of employment of Thiru Djeaboualane has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the Notification issued in Labour Department's G.O. Ms. No. 20/9/Lab./L, dated 23-05-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

S. SANDIRAKUMARAN,  
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT AT PUDUCHERRY**

Present : Tmt. G.T. AMBIKA, M.L., PGDCLCF.,  
Presiding Officer.

Thursday, the 11th day of July 2024.

**I.D. (L). No. 09/2019**  
**CNR. No. PYPY06-000015-2019**

The President,  
Thiru B. Chandramohan,  
Bharatha Makkal Sasana Urimagal Iyakkam,  
Puducherry. . . Petitioner

Vs.

The Managing Director  
Puducherry State Co-operative Bank Limited (No.78),  
Puducherry. . . Respondent

This industrial dispute coming on this day before me for hearing in the presence of Thiru B. Mohandoss, Counsel appearing for petitioner and Thiru C. Pragagarane, Counsel for the respondent and upon hearing the learned Counsel for Petitioner and respondent and on perusing the entire records of the case, having stood over for consideration till this date, this Court delivered the following:

AWARD

This Industrial Dispute arises out of the reference made by the Government of Puducherry vide G.O. Rt. No. 19/Lab./AIL/T/2019, dated 08-02-2019 of the Labour Department, Puducherry to resolve the following dispute between the Petitioner and the Respondent, viz., -

(i) Whether the dispute raised by Bharatha Makkal Sasana Urimai Iyakkam, Puducherry, against the management of M/s. Puducherry State Co-operative Bank Limited No. P78, Puducherry, over refusal of employment of Thiru Djeaboualane can be exhausted under the Puducherry Co-operative Societies Act, 1972 or under the Industrial Disputes Act, 1947?

(ii) If, the remedy can be exhausted under the Industrial Disputes Act, 1947, what relief Thiru Djeaboualane is entitled to?

(iii) To compute the relief if any, awarded in terms of money if, it can be so computed.

2. The averments set forth in the claim statement is as follows:

(i) The Petitioner is a Registered Association working for the protection of rights of people irrespective of their caste, religion and political party. The present claim pertains to the industrial dispute raised by the petitioner association on behalf of Thiru M. Djeaboualane, working as messenger in The Pondicherry State Co-operative Bank Limited P78. The subject matter of the dispute also relates to non-employment of the workman Thiru M. Djeaboualane for whom the respondent management has not allotted any duties despite the workman's willingness to perform his duties as a messenger and the respondent has willfully refused to provide work to him on the ground of pendency of disciplinary proceedings against him, that too without suspending/terminating him.

(ii) The management of The Pondicherry State Co-operative Bank Limited, framed charges of misconduct under the show-cause notice, dated 4-11-2013 and by the said notice the workman Thiru M. Djeaboualane was directed to submit his explanation for unauthorized absence from duty from 01-02-2003 to 28-02-2003 and 01-04-2003 to 05-12-2003 and 19-01-2004 to 30-06-2009 and from 01-04-2010 to till the date of issuance of the show-cause notice and to submit the details of action taken by the Hon'ble Court in respect of the arrest warrant issued to him on 9th August 2002. He was also asked to state as to why disciplinary action should not be initiated against him as per the regulations governing the service conditions of the Employee's of the

Respondent Bank. The workman submitted his reply, dated 21-11-2013 and in the said reply he has denied the charge of unauthorized absence for the period referred to in the show-cause notice. He has also denied the receipt of any show-cause notice, dated 20-08-2002 as referred to in the show-cause notice, dated 04-11-2013 alleging that the management of the bank instructed him to submit explanation regarding the arrest warrant before 04-09-2002. As such the workman requested the management to produce the copy of the show-cause notice, dated 20-08-2002 alleged to have been sent to him along with the mode of sending the same to the Workman along with the acknowledgment by the Workman for the receipt of the same. In the reply he also added that the arrest warrant was relating to a civil case in respect of his personal debt and it had nothing to do with his conduct as an employee of the Bank and hence, there was no basis for initiating disciplinary proceedings against him in this regard.

(iii) The respondent without accepting the explanation submitted by the workman had respondent proceeded with the disciplinary proceedings further by appointing Mr. R. Parthasarathy, Advocate Puducherry, as Enquiry Officer. The Learned Enquiry Officer submitted his report, dated 19-04-2017, holding the workman guilty of violating Rule 51 of the Staff Regulations governing the service conditions of the employees of the Bank by his absence of duty without obtaining permission of the managing director of the bank and by his failure to join duty after he has been certified to be fit for joining duty and with regard to the second charge of issue of arrest warrant by a Civil Court, the Enquiry Officer has given a finding of not guilty, stating that the workman has not violated Rule 54 of the Staff Regulations governing the service conditions of the employees of the Bank.

(iv) The respondent issued show-cause notice, dated 15-06-2017 enclosing copy of the enquiry report referred to above and directing the workman to submit his objection for the enquiry report. It was also stated there on that on the workman's failure to submit objections the disciplinary authority shall proceed with appropriate disciplinary action as per the staff regulation. As the petitioner had already raised industrial dispute against the respondent in the matter of disciplinary proceedings against him and it was pending before the Labour Officer Conciliation, he has not submitted any reply separately to the management. However the workman submitted his objections for the enquiry report to the Conciliation Officer, who in turn handed over copy of the same to the representative of the respondent management who appeared before the Conciliation Officer.

(v) The workman originally submitted representation, dated 13-10-2014 to the Labour Officer (Conciliation) requesting interference in to the industrial dispute against the management of the bank. In that the workman pointed out the justification for his claim for employment in the bank, as he was not suspended pending enquiry. To his surprise and shock, the respondent did not submit any reply at all for his representation to the Conciliation Officer. This made the workman to approach the Conciliation Officer through letter, dated 12-01-2015 seeking submission of failure report on account of non-cooperation by the respondent. Subsequently the workman submitted rejoinder, dated 05-02-2015 reiterating his request for advice to the respondent for reemploying the workman and to settle his dues. Even thereafter, no progress was shown by the management for several years. The Respondent pressurized the Conciliation Officer not to keep the conciliation proceeding for long as a result of which the workman has suffered both physically and mentally for years together. From the failure report, dated 18-12-2018 of the Conciliation Officer, the workman has come to know that the respondent management has filed reply statement, dated 26-10-2018 in which vexatious *plea* has been taken to the effect that the provisions of the Industrial Disputes Act, 1947 do not apply to the employees of State Co-operative Bank and the jurisdiction of the Labour Court is excluded when a comprehensive remedy is available under the Pondicherry Co-operative Societies Act, 1972.

(vi) The issue raised by the respondent alleging that the Provisions of the Industrial Disputes Act, 1947 do not apply to the employees of the State Co-operative Bank is misconceived one. It is also basic principle of law that *plea* of lack of jurisdiction, to prove there is presumption regarding jurisdiction under the Industrial Disputes Act, 1947 burden lies on the person who takes same. Another principle of law is that of the Labour Court Constituted when the dispute raised between the dispute between workman and employer which is constitutes an industrial dispute, It is significant to note that as per section 2(k) of the Industrial Disputes Act, 1947, the dispute between workman and employer which is connected with the non-employment the employment of the workman amounts to industrial dispute. Hence, the dispute raised by the petitioner regarding non-employment of the workman is maintainable before this Hon'ble Court. Moreover as per section 7 of the I.D. Act R/W 2nd schedule the Hon'ble Labour Court has got jurisdiction to decide all matters other than those specified in the 3rd Schedule. As the

Schedule, this Hon'ble Court can very well adjudicate the claim made by the Subject matter of claim does not fit in any of the matters specified in the 3rd schedule, this Hon'ble Court can very well adjudicate the claim made by the petitioner.

(vii) The other contention of the respondent that "the workman is permitted to file an application before the Managing Director of the bank for getting reliefs under the rules and regulation of the bank and is also permitted to file appeal petition before the Administrator of the Bank, if affected by the final orders of the disciplinary authority" is not valid in law and cannot be maintained. In this case the respondent has not passed any final order in the disciplinary proceedings after the enquiry report and therefore, there is no chance for the workman to take resort to internal remedy available under the rules and regulations of the bank. Even otherwise, as per the principles of Labour Law there is no obligations imposed on the workman to exhaust the administrative remedy available under the service rules.

(viii) It is a basic principle of Labour Law that the burden of proof always lies on the shoulders of the Management to prove the charges of misconduct framed under the charge sheet/show-cause notice issued by the Management. It is noteworthy that to find fault with the workman for his unauthorized absence from duty under four different spells of time starting from 01-02-2003 and ending with 4-11-2013, the management has not at all produced any document to prove his absence from duty for the above period by the petitioner. For proving the charge of unauthorized absence it is obligatory to prove the factum of absence from duty at first by producing documents relating to attendance of the workman. In the case on hand the respondent has miserably failed to prove the absence for the above stipulated period by producing attendance register or wages register or any other relevant documents. For non-production of the attendance register or other relevant documents by the management, adverse inference has to be drawn against it.

(ix) The workman without prejudice to his contention regarding burden of proof, has submitted documents marked as Exhibits W4 to W7 showing his getting salary from the management for the period of unauthorized absence partly covered under the charge-sheet, dated 04-11-2013. The entire record of disciplinary proceedings clearly establishes the fact that there has been an arbitrary exercise of disciplinary proceedings by respondent bank, a co-operative institution registered under the Pondicherry Co-operative Societies Act, 1972,

according to the sweet will and pleasure of its Officers. The damage suffered by the petitioner on account of non-employment from the year 2004 onwards by the unlawful act of the respondent cannot be calculated in terms of money. Hence, the petition.

3. *The averments set forth in the counter is as follows:*

(i) The Puduchery Co-operative Bank Limited, is a registered society, registered under the Puduchery Co-operative Societies Act 1972 and Rules 1973 made thereunder. The petitioner is no way connected to the respondent bank and is not recognized *Iyakkam* in the bank and there are some other registered and recognized associations for the welfare of the bank staff started on their own. Therefore, the petitioner has no *locus standi* to file this dispute and this petition may be dismissed in limine. The Petitioner filed this dispute petition stating that the petitioner is a Registered Association working for the protection of rights of people irrespective of their caste, religion and political party. The petitioner association is no way connected to the respondent bank and the issue to be decided is whether the petitioner association is empowered to file this dispute under Industrial Disputes Act 1947.

(ii) As for as the employee Thiru Djeaboualane is concerned he was not dismissed, retrenched or otherwise terminated from the service of the individual and the petitioner also not stated about any Impugned order, issued by this Respondent and therefore, the dispute raised will not comes under section 2 the Industrial Dispute Act. The petitioner not challenged any impugned order of this respondent bank in the claim statement. Since, no orders have been passed by the disciplinary authority of the respondent bank. The preliminary issue is whether the dispute raised by the Bharatha Makka Sasana Urimai *Iyakkam*, Puducherry, against the management of M/s. Puducherry State Co-operative Bank Limited, No. P 78, Puducherry, over refusal of employment of Thiru Djeaboualane can be exhausted under the Puducherry Co-operative Societies Act, 1972 or under the Industrial Disputes Act 1947? As per section 2 (k) there should be a factum of dispute not merely a difference of opinion. It has to be exposed by the Union in writing at the commencement of the dispute. In *Jadhav JH Vs Forbes Gobak Limited* (2005) 1 LL.B. 1089 (SC) it was held that, a dispute relating to a single workman may be an industrial dispute if, either it is exposed by the Union or by a number workmen irrespective of the reason on the union exposing the cause of workman not the majority of the union. In *Express Newspaper*

Private Limited Vs First Labour Court West Bengal and others (1959-1960) 17 FJR 413 (Cal) it was held that a dispute is an industrial dispute even where it is sponsored by the union which not registered but, the Trade Union must not be on unconnected with the employer or the industry concerned. The Petitioner Association is not it Trade Union and not connected in no way to this respondent Bank. Therefore, the petition filed by the petitioner is without jurisdiction. In view of the above the first reference made by the Government may be decided in favour of the respondent.

(iii) This respondent submits that an individual dispute even though not sponsored by other workmen or exposed by the Union would be deemed to be an industrial dispute if it covers any of the matter mentioned in section 2 (A). So far as the subject matter of the dispute is concerned 2(A) does not bring about any change. The provisions of the section 2 (k) alone determine that question. Therefore, section 2 (A) can be treated as an explanation to 2(k).

(iii) As per section 84 of Puducherry Co-operative Societies Act, if any dispute touching the constitution of the committee or the Management or the business of a registered Society arises:-

- (a) among members, past members past members and deceased members; or
- (b) between a member, past member or person claiming through a past member or deceased member and the society; or
- (c) between the society or its committee and any past committee any officer, agents or servants or any past officer, nominee, heirs or legal representative of any deceased Officer, deceased agent, or deceased servant of the society; or
- (d) between the society and any other registered society:

\* such dispute shall be referred to the Registrar for decision.

\* for the purposes of this section a dispute shall include:-

(i) a claim by a registered society for any debt or demand due to it from a member, past member or the nominee, heir or legal representative of a deceased member whether such debt or demand be admitted or not; and

(ii) a claim by a registered society against a member, past member or the nominee heir or legal representative of a deceased member for the delivery of a possession to the society of land or other immovable property resumed by it for breach of the conditions of assignment or allotment of such land or other immovable property:

provided that no dispute relating to, or in connection with, any election to a committee shall be referred under this sub-section till the date of the declaration of the result of such election. The Registrar may, on receipt of such reference decide the dispute himself or transfer it for disposal to any person subordinate to and empowered by him.

(iv) This respondent submit that in the Rule 64 of the Puducherry Co-operative Societies Rules 1973, it is stated that the period of limitation for referring a dispute mentioned in sub-rule (1) shall be regulated by the provisions of the Indian Limitation Act 1963, as if the dispute were a suit and the Registrar of a Civil Court. As per section 145 of the Puducherry Co-operative Societies Act 1972 it is stated that the Tribunal, the Registrar, the arbitrator or any other person deciding a dispute and the liquidator of a society shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure 1908. As per section 139, Section 140 of The Puducherry Co-operative Societies Act 1972 empowered the Government to constitute as many Tribunals (Co-operative Tribunals) as may be necessary for the purpose of this Act under section 139, and if any person aggrieved by the order of the disputes, except the Election Disputes, decided by the Registrar or the person empowered under the Act can file an appeal before the Co-operative Tribunal under section 140 of the Act. In Puducherry the Hon'ble Principal District Judge Court is functioning as the Co-operative Tribunal. As per section 144 of the Puducherry Co-operative Societies Act 1972 "No order or award passed, decision or action taken or direction issued under this Act by an arbitrator, a liquidator, the Registrar or an Officer authorized or empowered by him, the Tribunal or the Government or any Officer subordinate to them, shall be liable to be called in question in any Court."

(v) This respondent submit to state that in view of the above provisions the Petitioner should have first go to the Registrar Court under section 84 of the Puducherry Co-operative Societies Act 1972, since it is a dispute between the management of the Co-operative respondent society, and the servant working in respondent society. The claim is not about the final orders passed by this respondent bank

against the petitioner on the disciplinary matter which is still pending. As per Rule 51 of the subsidiary Regulations Governing the service conditions of the employees of the Puducherry State Co-operative bank limited it is stated as follows:-

Not to absent from duty without permission or to be late in attendance:

(a) An employee shall not absent himself from duty without obtaining permission of the Competent Authority.

(b) An employee who absents himself from duty without leave or over stays his leave except under circumstances beyond his control for which he must tender satisfactory explanation shall not be entitled to draw any pay and allowances during such absence or overstay and further be liable for such disciplinary measures as the Competent Authority may impose. An employee of the bank shall not absent himself from duty without obtaining proper permission from the Competent Authority and if an employee so absents himself or overstays his leave, he will be liable for disciplinary action together with other punishments that may be imposed by the Competent Authority namely this Respondent of the Bank.

(vi) Thiru M. Djeabouballan not followed any of the above provisions and not joined duty and he was not suspended or terminated or given any other punishment till date in any manner based on the disciplinary enquiry report. There is no time-limit prescribed for the disciplinary authority to decide the disciplinary proceedings in the bank regulations. The petitioner approached the Labour Conciliation Officer before passing any orders by the disciplinary authority, in order to delay the matter and gain time. Further, the petitioner has approached the Labour Conciliation and during the discussion before the Conciliation Officer, the Management respondent bank come forward with some suggestions for amicable settlement, considering his health condition, which was not accepted by the Petitioner, and therefore, the Officer given failure report.

(vii) In this case no final order is passed against the petitioner based on the disciplinary proceedings initiated against him. Therefore, this petition is a premature one. Further, the petitioner also not referred any impugned order in his claim petition, and could not be produced as no final order is issued so far by the Bank. The Petitioner in order to gain time from passing the final orders on the disciplinary proceedings, by filing conciliation petition before the Labour Officer Conciliation and labour dispute before this Court, and therefore, the prayer of the petitioner

is not sustainable. When there is a dispute arise regarding not giving employment, between the management of a co-operative society and the servant/employee of the society, it can be referred to the Registrar of Co-operative Societies under section 84 of the Puducherry Co-operative Societies Act 1972. Hence, prayed for the dismissal of the claim petition with exemplary costs.

4. *Points for consideration:*

1. Whether the dispute raised by the petitioner union is justified?

2. Whether the Petitioner is entitled for the relief as prayed in the claim petition?

3. Whether the industrial dispute raised by the petitioner is maintainable before this Court?

5. *On points 1 to 3:*

Heard both sides on the issue of jurisdiction. On perusal of case records it is found that the above dispute has been raised stating that one Thiru M. Djeaboubalane while working in the Puducherry State Co-operative Bank as a messenger was an habitual unauthorised absentee from duty from 01-2-2003 to 28-2-2003 and from 01-04-2003 to 05-12-2003 and from 19-01-2004 to 04-11-2013 and therefore, disciplinary action was initiated as against him and charge-sheet was issued and enquiry was conducted by appointing an Advocate as an Enquiry Officer and in the enquiry charges were proved and when necessary action based upon the Enquiry report was intended to be initiated the abovesaid Thiru M. Djeaboubalane had approached the Conciliation Officer and later as the conciliation failed the dispute has been referred to this Court to decide the following points:

(i) Whether the dispute raised by Bharatha Makkal Sasana Urimai Iyakkam, Puducherry, against the management of M/s. Puducherry State Co-operative Bank Limited No. P78, Puducherry, over refusal of employment of Thiru Djeaboubalane can be exhausted under the Puducherry Co-operative Societies Act, 1972 or under the Industrial Disputes Act, 1947?

(ii) If, the remedy can be exhausted under the Industrial Disputes Act, 1947, what relief Thiru Djeaboubalane is entitled to?

(iii) To compute the relief, if any, awarded in terms of money, if it can be so computed.

6. The records further reveals that on behalf of the petitioner a claim statement was filed which states that based upon disciplinary proceedings and enquiry report no further final orders had been passed and in the claim petition the petitioner has sought for the following reliefs:

(a) Declaring that the disciplinary proceedings initiated by the respondent through charge-sheet, dated 04-11-2013 against the petitioner is *null and void*;

(b) Directing the respondent to provide employment to the petitioner as messenger with back wages for the period of non-employment with continuity of service and all other attendant benefits;

(c) Awarding damages for non-employment to the tune of ₹ 10,00,000 payable by the respondent; and

(d) Granting such other relief as this Hon'ble Court deems fit and proper in the circumstances of the case and in the interest of justice.

7. The records further reveals that it is at this stage the respondent herein has filed a counter terming as preliminary counter stating that while referring the dispute to this Court the first point raised for determination is that whether the refusal of employment to Thiru M. Djeaboualane can be exhausted under the puducherry Co-operative Societies Act 1972 or under the Industrial Disputes Act 1947? and therefore, after this point is determined the respondent would file counter and additional counter.

8. It is the specific contention of the respondent herein that the petitioner association is not a Trade Union and no way connected to the respondent bank and therefore, the petition filed by the petitioner Association is without any jurisdiction. The other contention of the respondent is that section 84 of Puducherry Co-operative Society Act empowers the Registrar to decide the disputes and further as per Rule 64 of Puducherry Co-operative Societies Rules 1973 the time-limit for referring the dispute is provided and likewise as per section 145 of Puducherry Co-operative Society Act it is stated that the Registrar has all powers that of Civil Court and section 144 of Puducherry Co-operative Society Act states that an order or award passed by a Registrar shall not be questioned in any Court. Thus, the prime contention of the respondent is that this Labour Court has no jurisdiction to decide the present dispute and as such this dispute is not maintainable.

9. The learned Counsel for petitioner to substantiate that this Court has jurisdiction to decide the dispute has relied upon the following citations:

(i) Bangalore Water Supply and Sewerage Board, *etc.*, *Vs.* A. Rajappa and Others, CDJ 1978 SC 236 - Held that the Co-operative Societies are industries coming under the definition of section 2(j) of the Industrial Disputes Act, 1947. In the present case, the respondent bank has been registered as a Co-operative Society under the Puducherry

Co-operative Societies Act, 1972. As such the provisions of the Industrial Disputes Act relating to the resolution of the industrial disputes through the machineries provided under the Industrial Dispute Act is applicable to the claim of the petitioner.

(ii) Allahabad District Co-operative Limited *Versus* Hannuman Dutt Tewari, CDJ 1981 SC 317 - Held that disputes relating to conditions of service of the workmen employed by the Co-operative Society cannot be held to be disputes touching the "Business of the Society" as per the provisions of section 70 of the Uttar Pradesh Co-operative Societies Act. As such the ratio of the above case is applicable to the present case in which the term "Business of the Society" under section 84 of the Puducherry Co-operative Societies Act, 1972 is interpreted.

(iii) Workmen of Orissa Police Co-operative Syndicate *Vs.* State of Orissa, 1982 II 139 (Orissa H.C.) - Held that the dispute between employees of a Co-operative Society registered under Orissa Co-operative Societies Act, 1962 and the Society cannot be resolved by the Registrar of Co-operative Societies under section 68. Industrial Tribunal constituted under the Industrial Disputes Act, 1947 has jurisdiction to decide the same Reverting to the facts of the present case, the provisions of section 84 of the Puducherry Co-operative Societies Act is *pari materia* to those of section 68 of the Orissa Co-operative act and hence, the ratio of the above case is applicable to the claim of the petitioner. So, this Hon'ble Court has got jurisdiction.

10. This Court finds that in this case the employee namely Thiru Djeaboualane is found to have been working at Puducherry State Co-operative Bank and for the charge of unauthorized absenteeism a charge-sheet has been issued to the petitioner and thereafter domestic enquiry has been conducted and while further action could be taken based on Enquiry Report the petitioner has approached Conciliation Officer and thereafter, this reference has been made to this Court. Thus, it is an admitted fact that the said Thiru Djeaboualane is working at Co-operative Society Bank and his dispute is that he was not provided any work and thereby contends that there is refusal of employment. Hence, in the said circumstances it has become necessary to determine whether the petitioner can devise his remedy under Industrial disputes Act or Puducherry Co-operative Societies Act 1972.

11. This Court finds that Industrial Disputes Act 1947 applies to any industrial dispute concerning any industry and therefore, it becomes mandatory to determine whether the Puducherry Co-operative Society Bank comes within the ambit of term "Industry".

The learned Counsel for respondent raised an objection that the reference is beyond the jurisdiction of the Labour Court in as much as the Co-operative Society Bank is not an industry and the workmen on whose behalf the petitioner Association are espousing their cause are not workmen under the Industrial disputes Act and therefore, the reference is bad. What amounts to an industry has been succinctly laid down by Hon'ble Supreme Court in Bangalore Water Supply and Sewerage Board *Vs.* A.Rajappa.

12. *This Court at this juncture relies up on the following citations:*

(i) Bangalore Water Supply and Sewerage Board *Vs.* A. Rajappa 1978 (ii) SCC Page 213 it has been held below:

7.(1). 'Industry', as defined in section 2(j) has a wide import.

(a) Where (i) systematic activity, (ii) organized by Cooperation between employer and employee (the direct and substantial element is chimerical) (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss *e.g.* making, on a large scale prasada or food), *prima facie*, there is an 'industry' in that enterprise.

(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private and other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

(d) If, the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking."

(11) Although section 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be imagined to overreach itself.

"(a) 'Undertaking' must suffer a contextual and associational shrinkage as explained in Banerji and in this judgment; so also, service, calling and the like. This yields the inference that all organized activity possessing the triple elements in I (supra), although not trade or business, may still be 'industry' provided the nature of the activity, *viz.*, the employer-employee basis, bears resemblance to what we find in trade or business. This takes into the fold of 'industry' undertakings, callings and

services, adventures 'analogous to the carrying on the trade or business'. All features, other than the methodology of carrying on the activity *viz.*, in organizing the Cooperation between employer and employee, may be dissimilar. It does not matter, if on the employment terms there is analogy."

(iv) The dominant nature test:

(a) Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom are not 'workmen' as in the University of Delhi case or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur will be the true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status.

(b) Notwithstanding the previous clauses, sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by Government or Statutory Bodies.

(c) Even in a departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within section 2(j).

(d) Constitutional and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby."

(ii) *Mgt. Of Som Vihar Apt. Owners Housing ... vs Workmen, Indian Engg. and General Mazdoor* on 22 February, 2001.

Equivalent citations: (2001)ILLJ1413SC, (2002)9 SCC 652, AIR 2002 SUPREME COURT 2530, 2002(9) SCC 652, 2002 AIR SCW 2746, 2002 LAB. I. C. 2468, 2001 LAB LR 599, 2001 (1) JT (SUPP) 67, (2001) 3 LAB LN 815, (2002) 1 SCT 207, 2002 SCC (L&S) 1099, (2001) 1 LAB LJ 1413, (2001) 4 SERV LR 649, (2001) 4 SUPREME 559 it has been held as follows:

It is clear when personal services are rendered to the members of a society and that society is constituted only for the purposes of those members to engage the services of such employees, we do not think its activity should be



treated as an industry nor are they workmen. In this view of the matter so far as the appellant is concerned it must be held not to be "industry". Therefore, the award made by the Tribunal cannot be sustained. The same shall stand set aside.

Considering the overall purpose of existence of the society and the nature of services rendered by it, by applying the dominant nature test succinctly laid down by the Supreme Court in Bangalore Water Supply, it is but a foregone conclusion that the society is not an industry in any true sense of the word as applied under section 2(j) of the Act.

(iii) M/s. Arihant Siddhi Co.Op. Hsg. Soc. Ltd vs 1(A)Pushpa Vishnu More And Others on 22 June, 2018.

Equivalent citations: AIR ON LINE 2018 BOM 994, (2018) 159 FACLR 271, (2018) 2 CURLR 931, (2019) 4 LAB LN 99, (2020) 164 FACLR 304 the Hon'ble Bombay High Court has held as follows:

This Court, in its judgment in the case of M/s. Shantivan-II Housing Society Vs. Smt. Manjula Govind Mahidal has considered whether a Co-operative Housing Society can be termed as an industry within the meaning of section 2(j) of the Industrial Disputes Act merely because it carries on some commercial activity, not as its predominant activity, but, as an adjunct to its main activity. This Court has held that such society is not an industry. In a case like this, that is to say, where there is a complex of activities, some of which may qualify the undertaking as an industry and some would not, what one has to consider is the predominant nature of services or activities. If the predominant nature is to render services to its own members and the other activities are merely an adjunct, by the true test laid down in the case of Bangalore Water Supply and Sewerage Board vs. A. Rajappa, the undertaking is not an industry.

As held by the Supreme Court in 2 1978(ii) SCC Page 213 when there are multiple activities carried on by an establishment, what is to be considered is the dominant function. In the present case, merely because the society charged some extra charges from a few of its members for display of neon signs, the society cannot be treated as an industry carrying on business of hiring out of neon signs or allowing display of advertisements.

13. Thus, this Court in the light of above citations finds that when there are complex of activities, some of which may qualify the undertaking as an industry and some would not, what one has to consider is the predominant nature of services or activities. If the predominant nature is to render services to its own members and the other activities are merely an adjunct, by the true test laid down in the case of Bangalore Water Supply and Sewerage Board vs. A.Rajappa, the undertaking is not an industry.

14. Hence, on placing reliance upon the above citations and above discussions holds that as the employer herein being Co-operative Society Bank this Court holds that the same does not fall within the ambit of definition "industry" and when such being so the invoking of Industrial Disputes Act is not maintainable and thereby this Court holds that this Court has no jurisdiction to try the dispute raised by the petitioner and the dispute raised by the petitioner is not justified.

15. Thus, this Court holds that the very reference to this Court to decide the dispute raised by the petitioner herein is not maintainable. Consequently the determination of other points stated in the reference also does not deserves any consideration.

In the result this I.D. petition is dismissed as not maintainable. There is no order as costs.

Partly typed by the Stenographer, Partly typed by me in my laptop, corrected and pronounced by me in open Court on this the 11th day of July, 2024.

**G. T. AMBIKA,**  
Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Puducherry.

*List of witnesses examined on petitioner's side :*

WW1 — 28-11-2022 Mr. M.Djeaboualane

*List of exhibits on petitioner's exhibits :*

Ex.W1 — Xerox Copy of the full text of the section 84 of the Puducherry Co-operative Societies Act, 1972.

Ex.W2 — Xerox Copy of the Regulations Governing the Service Condition of the Employees of the Pondicherry State Co-operative Bank Limited, framed under Bye-Law No., 35(C).

*List of witnesses examined on respondent side : NIL*

*List of exhibits of respondent side : NIL*

**G. T. AMBIKA,**  
Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Puducherry.

GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT

(G.O. Rt. No. 16/AIL/Lab./S/2025,  
Puducherry, dated 17th February 2025)

NOTIFICATION

Whereas, an Award in I.D. (T) No. 19/2023, dated 19-09-2024, of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of dispute between the M/s. Vinayaga Mission's Medical College and Hospital, Karaikal and the Union workmen Tmt. R. Kamali and 13 others represented by the Union for all staff in Vinayaga Mission's Medical College and Hospital, Karaikal, over granting promotion has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/9/Lab./L, dated 23-05-1991, it is hereby directed by the Secretary to Government (Labour), that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

S. SANDIRAKUMARAN,  
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT AT PUDUCHERRY**

*Present* : Tmt. G. T. AMBIKA, M.L., PGDCLCF.,  
Presiding Officer.

*Thursday, the 19th day of September, 2024*

**I.D(T). No. 19/2023  
C.N.R. No. PYPY06-000082-2023**

The Secretary,  
Union for all Staff in Vinayaga Mission's  
Medical College and Hospital,  
No. 9, MGJ Nagar-1st Cross,  
PK Salai, Karaikal-609 602. . . Petitioner

*Versus*

The General Manager,  
M/s. Vinayaga Mission Medical  
College and Hospital,  
Keezhakasakudimedu, Kottucherry,  
Karaikal-609 609. . . Respondent

This industrial dispute came upon this day for hearing, the petitioner being remained absent and in the presence of Thiru R. Ilancheliyan, Counsel for the Respondent, upon perusing the records, this Court passed the following:

ORDER

1. This industrial dispute arises out of the reference made by the Government of Puducherry, *vide* G.O. Rt. No. 77/AIL/Lab./T/2023, dated 08-09-2023, of the Labour Department, Puducherry, to resolve the following dispute between the petitioner and the respondent, *viz.*,-

(i) Whether the industrial dispute raised by the Union workmen, represented by union for all staff in Vinayaga Missions Medical College and Hospital, Karaikal, against the management of M/s. Vinayaga Mission's Medical College, Karaikal, over granting promotion to Tmt. R. Kamali and 13 others as listed in annexure as Stores Officer from the date of granting promotion to their junior Thiru P. Kumar as Store officer is justified or not? If justified, what relief the Union workmen listed in annexure are entitled to?

(ii) To compute the relief, if any, awarded in terms of money if, it can be so computed?

2. Today, the case came up for hearing. A counsel who undertook to file vakalath for petitioner represented that the petitioner is not co-operating for the case. The petitioner having chosen to raise this Industrial Dispute has neither appeared in person or through a Counsel from the date of first hearing. Hence, the same is recorded and this petition is closed for non-prosecution.

In the result, this reference is closed for non-prosecution. There is no order as to costs.

Written and pronounced by me in the open Court on this the 19th day of September, 2024.

**G. T. AMBIKA,**  
Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Puducherry.

GOVERNMENT OF PUDUCHERRY  
**HINDU RELIGIOUS INSTITUTIONS AND WAQF**

(G.O. Ms. No. 01/CHRI/T.4/2025/117,  
Puducherry, dated 04th February 2025)

ORDER

Adverting to the Orders, dated 30-06-2023 of the Hon'ble High Court of Judicature at Madras in W.P. Nos: 34726 of 2022 and 3241 of 2023 and G.O. Ms. No. 1/CHRI/T.2/2023, dated 14-07-2023, and in exercise