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**(1996) 08 MAD CK 0019**  
**In the Madras High Court**

Dr. R. Balasubramanian

APPELLANT

Vs

Tamil Nadu Agricultural University and Others

RESPONDENT

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**Date of Decision :** 16-08-1996

**Acts Referred:**

**Citation :** (1997) 1 MLJ 24

**Hon'ble Judges :** S.M. Abdul Wahab, J

**Bench :** Single Bench

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### Judgement

S.M. Abdul Wahab, J.—This writ petition is for writ of certiorarified mandamus to quash the proceedings of the fourth respondent dated

7.8.1987 and forbear the respondents from recovering any amount from the petitioner's salary.

2. The petitioner Dr. R. Balasubramanian, Associate Professor, Tamil Nadu Agricultural University was selected for Ph.D. course and he was

deputed for that purpose. Before joining the course, he was asked to execute a bond for a sum of Rs. 25,000. One of the terms in the bond is that

in the event of successful completion of the course, if he resigned or relieved himself from service without returning to duties within a period of three

years he would pay a sum of Rs. 25,000 to the Tamil Nadu Agricultural University. The petitioner was undergoing first and second Trimesters

course. The course teacher did not follow the prescribed rules. Hence, he wrote a letter on 31.5.1983 and 31.8.1985 to the Dean, Madras

Veterinary College as well as the Professor and Head of the Department about it. After completion of three trimesters, he received a

communication on 12th March, 1984 from the Registrar Agricultural University, terminating the internal deputation on the ground that the petitioner

failed to earn the minimum OGPA of 3.00 at the end of third Trimester (1982 and 1985). In the same communication the Registrar ordered the

petitioner that the period spent on deputation would be treated as leave to which he was eligible and he would not be considered for higher studies.

The said order has been passed because of the petitioner's complaint as mentioned above. On 14.3.1984 the petitioner gave a representation.

Thereafter by the proceedings of the Dean of the Madras Veterinary College dated 26.7.1984, the period of deputation from 1.3.1983 to

7.4.1984 was regularised as follows:

1. E.L. for 91 days from 1.3.1983 to 30.5.1983;
2. VEL on private affairs (half-pay for 89 days) from 31.5.1983 to 27.8.1983;
3. MCL without L/C and without pay and allowance for 224 days from 26.8.1983 to 7.4.1984

4. Surrender leave already sanctioned for 15-days as on 4.12.1983 - is treated as cancelled. In the said proceedings, the petitioner was directed

to remit the excess payment on 28.11.1984. An appeal was preferred before the Vice-Chancellor, Tamil Nadu Agricultural University,

Coimbatore, which was rejected by the Registrar. Thereafter when the petitioner was working in Nagercoil, he received a communication from the

Director of Animal Health, enclosing the audit objection to remit a sum of Rs. 24,507.40 immediately. Hence, the writ petition has been filed.

3. A counter-affidavit has been filed on behalf of the first respondent. In the counter it is stated that the petitioner joined the course on 1.3.1983

and failed to earn the minimum overall grade point average (hereinafter referred to as minimum OGPA). His interim deputation was terminated. On

12.3.1986 he was informed the period of deputation spent would be treated as leave for which he was eligible. After regularisation of the period

from 1.3.1983 to 7.4.1984 he was found refund a sum of Rs. 24,507.40. The request of the petitioner to continue to Ph.D. course was turned

down, as the petitioner did not satisfy the rule; to continue the said course. Therefore, the internal deputation of the petitioner was terminated.

There is nothing wrong in the recovery order and that order is in accordance with law. The appeal was rejected by the Vice-Chancellor, which

was communicated by the Registrar, as the Chief Executive Officer. The bond executed empowers the respondent to recover the amount of Rs.

25,000 if the petitioner failed to successfully complete the course. The counter gives the particulars about the petitioner obtaining the credits. As he failed to complete the course, the Advisory Committee had to interfere and terminate the course.

4. Counsel for the petitioner contended that the proceedings impugned in this petition is motivated and mala fide, since he has complained about the course teacher to the Dean and the Head of the Department. He also contended that the recovery is not in accordance with the terms of the Bond. Further, with reference to the powers vested to the Dean of the Madras University in item 3 Appendix XIII of the Tamil Nadu Agricultural University Act, is not correct. The said condition was not included in the Bond.

5. Learned Counsel for the respondent contended that the internal deputation is governed by the regulations, if there was no successful completion, the internal deputation can be cancelled, and the period regularised. The petitioner was informed about the audit objections.

6. Now the main contention urged by the learned Counsel for the petitioner is that the internal deputation is covered only by the terms of the Bond, and the money can be recovered if there is breach of the condition contained in it. The conditions contained in the Bond is as follows:

The obliger shall successfully complete the course of study for which he is deputed and in the event of his resigning or retiring from service without returning to duty after the expiry of the period of internal deputation part-time or at any time within a period of three years after his return to duty, the obliger and the sureties shall forthwith pay to the Tamil Nadu Agricultural University or as may be directed by the Tamil Nadu Agricultural University on demand the said sum of Rs. 25,000 (Rupees twenty-five thousand only). On account of the obliger having been placed on internal deputation as aforesaid together with interest thereon from the date of demand at Government rates for the time being in force on Government loans.

7. On the other hand, learned Counsel for the petitioner contended that the recovery is under powers vested with the Dean of Madras Veterinary College in item (3) of Appendix XIII of the Tamil Nadu Agricultural-University Act, 1971. Regulation 32 (b) in Chapter V of the Regulations is framed u/s 38 of the Tamil Nadu Agricultural University Act, 1971. The Bond

executed in this case is pursuant to the Regulation. Regulation 32 (c)

of the Statutes is as follows:

The detailed rules for selection and deputation and for execution of bond are given in Chapter-XIII of TNAU Rules and also as amended by the

Board from time to time.

The Rules of Tamil Nadu Agricultural University were not produced before the Court. When the learned Counsel for the respondents produced

the Tamil Nadu Agricultural University Act, Statutes and Regulations published in the year 1964 corrected upto 30.6.1993. In the said volume

rules are not provided. There is also no appendix to the Act, as is mentioned in the order dated 20.7.1984. There is Appendix XIII to the

Regulations. It is with reference to the Administrative powers of the competent authority. In Appendix XIII item 3 relates to Associate Professors

Director of Physical Education, Dy. Librarian. The power, for deputation for sending the said persons for refresher course/summer institute etc. is

given to the Vice Chancellor. Apart from this, I do not find any details relating to selection for deputation and for execution of bonds. Since the

power is given to the Vice-chancellor for selecting and sending the associate professor on deputation it can be assumed that he has got powers to

terminate it also.

8. The question that has to be considered is whether the petitioner is liable to refund the amount paid to him during the deputation from 1.3.1983 to

7.4.1984. The Vice-Chancellor's proceedings dated 12.3.1984 does not say anything about it. It is simply an order cancelling the deputation

dated 12.3.1984. The Order mentions that the internal deputation period so far spent would be treated as on leave. Based on this, a

proposal has been sent to the Registrar by the Professor and Head of the Department in his letter dated 16.6.1984 for regulation of the said period

as in the following manner:

EL for 91 days from 1.3.1983 to 30.5.1993;

2. UEL on private affairs (half pay for 89 days) from 31.5.1983 to 27.8.1983;

3. MCL L/W from 28.8.1983 to 7.4.1984 for 224 days

After the observation of the audit, the Dean has finally passed the regulation order as follows:

1. E.L. for 91 days 1.3.1983 to 30.5.1983
2. UEL on private affairs (half pay) for 89 days from 31.5.1983 to 27.8.1983.
3. EOL without M.C. and without pay and allowance for 224 days from 28.8.1983 to 7.4.1984.
4. Surrender leave already sanctioned for 15 days as on 4.12.1983 is treated as cancelled.

In the said letter, that there is a mention about the excess payment to be recovered. No amount is mentioned in the letter of the Dean dated

26.7.1984. In the letter dated 29.6.1984 of the Director of Animal Wealth, it is seen that the excess amount of Rs. 24,501.40 is to be recovered.

It is mentioned that the said sum represents, the excess payment for the period from 31.5.1983 to 27.8.1983 and 28.8.1983 to 7.1.1984. The

same amount is mentioned in the letter dated 1.7.1987 also. It is not clear as to what is the amount that is sought to be recovered from the

petitioner, what is meant by the excess amount paid and whether any extra amount was paid to the petitioner during the deputation apart from

salary or not is not mentioned in any proceedings. So we have to assume that what is sought to be termed as excess amount is the salary what was

paid to the petitioner during the deputation. If so, the recoveries are not for any breach of the conditions contained in the bond. If the petitioner had

been paid the salary during the deputation, the same cannot be recovered unless the rules of deputation specifically provided for the same. Even

though the Regulation 32(c) of the Act contemplates that the detailed rules for selection, deputation and for execution of bonds, no rules appear to

have been framed. Such rules are not found in the Act. Regulations or Statutes of Tamil Nadu Agricultural University Act, 1971. The petitioner

cannot be said to have deliberately failed to obtain the necessary GPA. It is also not the case of the respondent that he has failed to attend the

course. He has also applied for permission to continue his course and complete it. He has also given reason for not earning the GPA at the end of

the third trimester. Therefore, in my view, there is no justification for recovering the amount from the salary of the petitioner. The writ petition

deserves to be allowed. Accordingly, this writ petition is allowed. However, there will be no order as to costs.