

(2012) 01 J&K CK 0003
In the Jammu And Kashmir High Court
Case No : SWP No's. 542 and 1044 of 2011

Ramesh Kumar Sadhoo

APPELLANT

Vs

State of Jammu & Kashmir and Others

RESPONDENT

Date of Decision : 30-01-2012

Acts Referred:

Citation : (2012) 01 J&K CK 0003

Hon'ble Judges : Jai Pal Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mr. Justice J.P. Singh, J.—The question that falls for consideration in these two Writ Petitions filed by Ramesh Kumar Sadhoo, an

employee of the Animal/Sheep Husbandry Department of the State Government is as to whether or not the petitioner is entitled to work as Chief

Executive Officer of the Jammu and Kashmir Milk Producer s Co-operative Limited, a Self-Reliant Cooperative Society constituted under the

Jammu and Kashmir Self-Reliant Cooperatives Act, 1999.

2. The facts giving rise to these Petitions may, in brief, be stated thus:-

The petitioner was deputed to the Jammu and Kashmir Milk Producer s Co-operative Limited, hereafter the Society , vide Government Order

No. 157-ASH of 2010 dated 15.11.2010. Finding that the Society was reluctant to accept his services in the Society, he approached this Court

by Writ Petition SWP No. 542/2011 seeking directions to the State Government and the Society to ensure that he functioned as Chief Executive

Officer of the Society and performed those duties which Mehraj-Ud-Din Peer, the earlier Government depute was discharging in the Society.

Restraint directions were also sought against the State Government not to depute any other Officer to the Society in his place.

3. Besides referring to the contributions made in the field of Dairy in the erstwhile Kashmir Valley Milk Producers Co-operative Federation

Limited, Cheshma-shahi, Srinagar and the Animal Husbandry Department, where he worked as Dairy Supervisor and Assistant Manager (Dairy)

respectively, the petitioner justifies his better Claim for deputation to the Society as against those whom the Society intended to adjust as its Chief

Executive Officer.

4. During the pendency of the Writ Petition, the petitioner's deputation to the Society was withdrawn by the State Government vide Government

Order No. 73-ASH of 2011 dated 28.04.2011.

5. The aforesaid Government Order was questioned by the petitioner by another Writ Petition SWP No. 1044/2011. Respondents contest the

petitioner's Claim in both the Writ Petitions on various grounds, inter alia, urging that having been deputed to the Society against the post of

Assistant Manager (Dairy), the petitioner cannot seek any Command for permitting him to function as Chief Executive Officer of the Society who,

in terms of the Articles of Association of the Society, was required to be appointed by the Board of the Society.

6. This apart, the petitioner is stated not to possess requisite qualification to man the post of Chief Executive Officer. According to the Society, the

Board has appointed Mr. Dinesh Choudhary as its Chief Executive Officer vide Order dated 09.05.2011 and the petitioner's Claim to function as

Chief Executive Officer was, therefore, misconceived.

7. I have considered the submissions advanced by learned counsel for the parties.

8. The petitioner being a member of the Animal Husbandry Service of the State Government does not possess any enforceable right as such to

seek his deputation to Institution, management and control whereof, does not vest with the State Government, his employer. His employer having

terminated his deputation to the Society vide Government Order No. 73-ASH of 2011 dated 28.04.2011, his Claim to continue on deputation

with the Society, therefore, no more survives. His challenge to the Government Order whereby his deputation was cancelled appears

misconceived, in that, the challenge could be considered only if it affected any of

his enforceable rights. Possessing no enforceable right to work in an Institution not controlled and managed by his employer, the petitioner cannot seek any Command against the Society to permit him to work as its Chief Executive Officer, which decision, in terms of the Articles of the Association of the Society, is required to be taken by the Board of the Society. The petitioner being a member of the Animal Husbandry Service of the State Government is required to work against the post held by him in the Service and cannot stake Claim for adjustment against any position in the Society particularly when his deputation stands withdrawn and the Society has already appointed Dinesh Choudhary as its Chief Executive Officer, against which the petitioner wants to work in the Society. The petitioner's Claim to work as Chief Executive Officer of the Society is, therefore, unsustainable additionally because the Society expresses its dissent to accept the petitioner as its Chief Executive Officer.

9. Even otherwise deputation cannot be thrust on a borrowing organization and in this view of the matter, the petitioner's claim to serve the Society which does not want accept him in the society, cannot be entertained.

10. The petitioner's plea that the Society was interested to adjust some ineligible person(s) as its Chief Executive Officer and the withdrawal of his deputation was managed to prevent him from showing his mettle is found without substance in view of the statement made by the Society's learned counsel at the time of hearing of the Petitions that the Society has absolutely no intention to post any such person as its Chief Executive officer who may not eligible therefor. For all what has been said above, both these Petitions are found without merit, hence dismissed.

11. Interim directions issued are, accordingly, withdrawn.