



W.P.No.29282 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.29282 of 2017
and
W.M.P. No.31540 of 2017

N.Vetrivel Murugan

.. Petitioner

VS

- 1.The Government of Tamil Nadu
Rep. By its Secretary,
Hindu Religious and Charitable Endowment,
Fort St. George, Chennai – 9.
- 2.The Commissioner,
Hindu Religious and Charitable Endowment,
Uthamar Gandhi Salai,
Nungambakkam, Chennai – 34.
- 3.The Joint Commissioner,
Satvachari RTO Office Salai,
Vellore – 9.
- 4.The Fit Person/Board of Trustees
Assistant Commissioner, HR & CE,
O/o. District Collectorate Campus,
Kancheepuram District.
- 5.The Executive Officer/Grade I,
Arulmighu Kandasamy Thirukoil,
Thiruporur,
Kancheepuram District – 603 110.

.. Respondents

Petition filed under Article 226 of the Constitution of India
praying to issue a writ of certiorarified mandamus to call for the
records of the second respondent culminating in the order dated



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20.07.2016 made in Na.Ka.No.9803/2016/H3 and quash the same insofar as the approval granted to the petitioner in the post of Clerk Grade I and consequently direct the approval to be granted by the second respondent as per the proposal submitted by the third respondent vide proceedings dated 01.10.2014 made in Na.Ka.No.7441/2014/A3 in the post of Manager in the time scale of Rs.4100-12300 with effect from 21.11.2008 and grant such consequential service benefits to which the petitioner would be entitled to.

For Petitioner : Ms.G.Thilagavathi,
Senior Counsel
for Mr.R.Gopinath

For Respondents : Mr.S.Yashwanth,
Additional Government Pleader
for R1 and R2

ORDER

Writ petition has been filed in the nature of a certiorarified mandamus seeking records of the second respondent, the Commissioner, Hindu Religious & Charitable Endowment at Chennai culminating in the order dated 20.07.2016 in Na.Ka.No.9803 /2016/H3 and quash the same in so far as the approval granted to the petitioner to the post of Clerk Grade I and direct approval to be granted by the second respondent/ the Commissioner, Hindu Religious & Charitable Endowment as per the proposals submitted by the third respondent, Joint Commissioner,Vellore by proceedings dated 01.10.2014 in Na.Ka.No.7441/2014/A3 to the post of



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Manager in the time scale of Rs.4100-12300 with effect from 29.11.2008 and also grant consequential service benefits to the petitioner.

2. The petitioner, was recruited to the fifth respondent Temple, Arulmighu Kandasamy Thirukoil, Thiruporur at Kancheepuram by a resolution of the fourth respondent, Fit Person / Board of Trustees, Assistant Commissioner, Hindu Religious & Charitable Endowment at Kancheepuram District dated 21.11.2008 as a daily wage employee in the post of Manager. This post of Manager had fallen vacant consequent to the earlier death of one Venkatesan on 21.03.2008 and subsequent retirement of the incumbent P.Athimoolam on 09.08.2008. It had been stated that the post of Manager, more particularly filled in by the petitioner, had been approved by the fifth respondent / Temple by the second respondent in the year 1995 by proceedings in No.61442/1994 dated 01.02.1995.

3. It is claimed that the petitioner though employed as Daily Wage worker had been discharging the duties of Manager continuously from that particular date of his initial appointment on 21.11.2008. It had also been stated that the post of Manager was a



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sanctioned post so far as the fifth respondent Temple is concerned and no doubt or dispute raised regarding the petitioner holding that particular post so long as he was a Daily Wage worker. Thereafter, since the petitioner had been continuously working as daily wage worker but discharging the duties of a Manager, the fifth respondent and as a matter of fact, the Board had forwarded a proposal on 21.09.2014 seeking approval of regular employment of not only the petitioner herein but also of eight others who were also working for considerable period of time on various posts as daily wagers.

4. So far as the petitioner is concerned, the proposal was that he should be regularized to the post of Manager. There was also an issue of relaxation of age and simultaneously that particular proposal was also sent that his age should also be relaxed and exemption should be granted to the petitioner to be so regularized. This was because he had completed the age of 40 years.

5. It is contended by the learned Senior Counsel on behalf of the petitioner herein that though this particular resolution or proposal had been forwarded by the Board, which is competent to do so under Rule 116 of HR&CE Rules, the said proposal was just kept in limbo and no orders were passed. When orders were



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actually passed, to the surprise of the petitioner, his services were regularized but not in the post of Manager but as Clerk Grade I and that is the reason why the writ petition has been filed claiming that he should have been regularized in the post of Manager as he had been discharging the duties of a Manager and had also been doing continuous service as Manager.

5.1 It had been emphasised by the learned Senior Counsel that the post of Manager is distinct from the post of Clerk and it was stated that the duties of the Manager are more onerous and responsibility is also thrust on such individuals holding the post of Manager. It is stated that therefore, recognizing the nature of the work done and the responsibilities which had been thrust, and discharged without any complaint, the petitioner should have been regularized only in the post of Manager and not in the post of Clerk as communicated via the impugned order. It is under those circumstances that the writ petition has been filed seeking interference with the order only in so far as recognizing the petitioner as to the post of Clerk and not of Manager but not with respect to the other aspects by which the petitioner has been regularized into service.



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5.2 The learned Senior Counsel placed very specific emphasis on the nature of the duties discharged by the petitioner herein and also placed further emphasis on the fact that there was a sanctioned post of Manager which fact has never been denied or disputed by the respondents so far as the previous incumbents were concerned. It is stated that the vacancy had arisen only consequent to the retirement of P.Athimoolam, who had retired on 09.08.2008. There had been no dispute with respect to the salary which was paid to P.Athimoolam in the grade of Manager and it is therefore contended that the petitioner had been prejudiced by this particular order and had been singularly put to disadvantage by the order of the respondents in not accepting the proposal of the fifth respondent to recognize him as Manager and on the other hand, recognizing his services only as Clerk and not as Manager.

6. The learned Additional Government Pleader on behalf of the respondents, however, disputed these contentions. The learned Additional Government Pleader placed reliance on G.O.(Ms)No.62, Tourism, Culture and Religious Endowments Department dated 18.02.2015, which had been passed by the Government with specific intent to regularize those who had been working on daily wages in various temples across the State. The said Government



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Order had been passed consequent to resolutions passed by the Government and in that particular Government Order, it had been very specifically stated that the posts of Accountant, Manager and Superintendent have not been recognized and have been created by individual temples alone but not sanctioned by the Government.

6.1 It had therefore been stated that regularization or proposal seeking regularization of those who were engaged in daily wages for the aforementioned three posts could not be acceded to by the Government and it was stated that the posts of Clerk and other posts mentioned in the Government Order alone should be approved.

6.2 It had therefore been contended on behalf of the respondents that the proposal sent by the fifth respondent which had been thereafter forwarded by the Joint Commissioner to the Commissioner had been kept in abeyance and not acted upon. Thereafter, a fresh proposal had been forwarded by the Fit Person / fourth respondent, of the fifth respondent Temple whereby it had been contended that the petitioner may be regularized in the post of Clerk. This was by proposal dated 04.04.2016, which was consequent to a resolution passed by the fifth respondent / Temple.



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6.3 It had therefore been contended that the fifth respondent themselves had realized that there was no possibility of the petitioner being brought into regular service in the post of Manager and therefore passed a subsequent resolution later and had sought approval of regularization of the petitioner only to the post of Clerk. It is therefore contended that there is no ambiguity or infirmity in the order passed recognizing the services of the petitioner only as Clerk and not as Manager.

7. I have given careful consideration to the arguments advanced.

8. The fifth respondent Temple, Arulmighu Kandasamy Thirukoil, Thiruporur , Kancheepuram originally had the post of a Manager in the pay scale of Rs.4100 – 12300. This was as early as 01.02.1995. Thereafter, there were also two individuals who have discharged the said position as Manager and that fact is stated in the affidavit filed in support of the writ petition. It is contended by the petitioner that Venkatesan was the Manager, who unfortunately died on 21.03.2008 and thereafter another individual P.Athimoolam was appointed as Manager and he retired on 09.08.2008.



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9. The learned Senior Counsel on behalf of the petitioner had very strenuously pointed out these aspects and was emphatic that there was recognition of the post of Manager, since, when two individuals had actually functioned in that particular post, there had been no dispute raised by the respondents herein. Thereafter, since the post of Manager became vacant, the fifth respondent by their Board proceedings, had forwarded a proposal wherein they had sought approval of the regularization of the services of the petitioner working on daily wages to the post of Manager on regular basis. This was on 21.09.2014. Much emphasis was placed on this particular communication by the fifth respondent. It had been very specifically contended that in the said resolution not only was the petitioner's service sought to be approved to the post of Manager but that his age should also be relaxed. Based on this particular proposal forwarded, the age was relaxed but no further action was initiated.

10. The respondents, however, had refrained from acting on the said proposal though it was forwarded by the Joint Commissioner at Sattuvachari in Vellore to the Commissioner. The primary reason as to why it was not acted upon was that there was



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no post of Manager as such and it was very specifically contended that various temples had created posts in the nomenclature of Accountant, Manager and Superintendent, though the Government had never sanctioned such posts or recognized sanction of such posts or recognized holding of such posts by any individual in the temples, more particularly in the petitioner temple.

11. It is under these circumstances, that relevance of G.O.No.62, dated 18.02.2015 comes into play. It is seen from the contents of the said G.O that very specifically, the post of Manager was never in existence and had never been recognized and even if any person had been appointed so in any temple it was in direct violation or contrary to the guidelines provided. The said Government Order had not been produced on behalf of the petitioner herein, but an extract of the same had been stated in the counter affidavit. In the counter affidavit, the extracted portion of the Government Order is as follows:-

"இந்து சமய அறநிலையத்துறை ஆணையர் அவர்களின் செயற்குறிப்பினை அரசு கவனமுடன் பரிசீலனை செய்தது. பரிசீலனைக்குப் பின்னர் அதனை ஏற்று, இந்து சமய அறநிலையத்துறை 2014-2015-4ஆம் ஆண்டின் வரவு செலவு கூட்டத் தொடரில் விதி 110-ன் கீழ் மாண்புமிகு முதலமைச்சர் அவர்களால் அறிவிக்கப்பட்ட



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அறிவிப்புகளுடன், 5 ஆண்டுகளுக்கு மேலாக தினக்கூலி மற்றும் தொகுப்பூதிய அடிப்படையில் பணிபுரியும் 8,184 திருக்கோயில் பணியாளர்களுக்கு ஊதிய விகிதம் நிர்ணயம் செய்வதற்காக, இந்து சமய அறநிலையத்துறை ஆணையர் அரசுக்கு அனுப்பியுள்ள செயற்குறிப்பில், கணக்கர்/மேலாளர்/கண்காணிப்பாளர் நிலை தொகுப்பூதியத்திலோ, தினக்கூலியிலோ அமைய வகையில்லை என்றும், சார்நிலை அலுவலர்கள் திருக்கோயில்களில் பதவிப் பெயர்களை தன்னிச்சையாக ஏற்படுத்தியுள்ளனர் என்றும், ஆனால் எழுத்தர் பணியினை மட்டுமே மேற்கொண்டு வருகின்றனர் என்றும், மேற்படி 8,184 பணியாளர்களில் மேல்நிலைப் பணிகளான மேலாளர்/கண்காணிப்பாளர்/கணக்கர்/காசாளர் பதவிகளில் பணிபுரியும் பணியாளர்கள் சேர்க்கப்பட்டுள்ளனர் என்று தெரிவித்துள்ளதன் அடிப்படையில், இந்து சமய அறநிலையத்துறை ஆணையர் அவர்களின் செயற்குறிப்பில் குறிப்பிடப்பட்டுள்ள மேலே பத்தி 4(I)-ல் வரிசை எண்.1 மற்றும் 2, பத்தி 4(II)-ல் வரிசை எண்.1 மற்றும் பத்தி 4(III)-ல் வரிசை எண்.1 ஆகிய மேல்நிலைப் பணிகள் தவிர்த்து திருக்கோயில்களில் அத்தியாவசியமான கீழ்நிலைப்பணிகளில் பணிபுரியும் பணியாளர்களுக்கு தகுதி மற்றும் நன்னடத்தை அடிப்படையில், மேலே பத்தி 4(VIII)-ல் குறிப்பிடப்பட்டுள்ள நிபந்தனைகளுக்குட்பட்டு, மேலே இரண்டு மற்றும் முன்றில் படிக்கப்பட்ட அரசாணைகளில் தெரிவிக்கப்பட்டுள்ளவாறு ஊதிய விகிதம் நிர்ணயம் செய்து பணி வரன்முறை செய்யவும், ஒரு கால பூஜை திட்டத்தில் பணியிட அங்கீகாரம் இன்றி பணிபுரியும் தகுதியுள்ள பணியாளர்களைக் கண்டறிய அவர்களுக்கும் பணிவரன்முறை செய்து ஆணையரே



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ஊதிய நிர்ணயம் செய்து கொள்வதற்கும் அனுமதி
வழங்கலாம் என அரசு முடிவு செய்து அவ்வாறே
ஆணையிடுகிறது.”

12. A careful reading of the said Government Order, rather the extracted portion of the aforementioned G.O. shows that either on contract basis or on daily wages, there was no post recognized for Accountant, Manager and Superintendent. It had also been stated that various temples had appointed persons to those posts by themselves / தன்னிச்சையாக ஏற்படுத்தியுள்ளனர். It had however been contended in the said Government Order that it is only the post of Clerk / எழுத்தர் which alone is recognized. It had been stated that by way of that Government Order, nearly about 8184 posts had been regularized. The Government Order is quite comprehensive in that particular aspect.

13. It is therefore seen that unless that particular Government Order is questioned, the Court cannot thrust the post of the Manager on the respondents and direct the respondents to approve such post and bring into regular time scale. The Government Order is straight forward. The language is simple. It only recognizes the post of Clerk in a Temple. It does not recognise daily wage worker to hold the post of Accountant, Manager or



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Superintendent. No doubt, the petitioner had been discharging the work of a Manager right from the date when he joined services. But unfortunately, the services are not recognized in letter or in spirit by G.O.No.62 dated 18.02.2015.

14. It is under those circumstances, that the services of the petitioner had been regularized in the impugned order only as a Clerk and not as Manager. In fact, in the impugned order dated 20.07.2016, there is also reference to G.O.No.62 dated 18.02.2015 and to G.O.No.128 dated 15.05.2015. The reason which had been stated is that only the post of Clerk can be recognized and not the post of either Accountant or Manager or Superintendent which condition is inbuilt since the G.O. had been referred to in the impugned order.

15. In view of that particular fact, which stares on the face of the petitioner herein, though he had, to his credit, been continuously working as Manager and had been discharging duties as Manager, it has to be held that the said post does not find approval or recognition in the said Government Order and since that particular Government Order had not been either questioned or challenged and de-recognition or non-recognition of the post of



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Manager has also not been questioned, the petitioner should accept that he can function only as a Clerk and to his credit continue to discharge duties as Manager.

16. In view of the above reasons, the relief sought cannot be granted but the regularization of the petitioner to the post of Clerk has been granted by the respondents and, therefore, the petitioner should be satisfied with that .

17. Writ petition stands dismissed. No costs. Connected miscellaneous petition is closed.

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Index:Yes/No
Neutral Citation:Yes/No
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