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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.66 of 2014

and

M.P.(MD)No.1 of 2014 and 1 & 2 of 2015

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai.

2.The Joint Commissioner,
Executive Officer,
Arulmighu Subramania Swami Thirukovil,
Tiruchendur,
Tuticorin District.

...Appellants

/Vs./

J.Murugan

...Respondent

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to set aside the order dated 25.04.2013 in W.P.(MD)No.4263 of 2013 on the file of this Court and allow this appeal.

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For Appellants : Mr.S.P.Maharajan
Special Government Pleader
For Respondent : Mr.B.Brijesh Kishore

JUDGMENT

(Judgment of the Court was made by **R.VIJAYAKUMAR, J.**)

The respondents in the writ petition are the appellants in the present appeal.

2.The writ petitioner filed this writ petition challenging the order refusing to regularize his services as Assistant Electrical Wireman in the respondent temple. According to the writ petitioner, he joined in service on 01.05.2008 on daily wages basis and he was working as an Assistant Wireman. He made a representation to regularize his services from the date of his initial appointment. However, citing G.O.Ms.No. 255, Tamil Development, Religious Endowments and Information Department, dated 28.06.2010, his request for regularization was rejected. Challenging the same, he had filed writ petition.



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3.In the counter, the second respondent contended that the temple had recommended for absorption of 10 persons apart from the writ petitioner. Since he was not having the required qualification, his name was not considered for regularization but others were regularised. The writ Court after considering G.O.Ms.No.255, dated 28.06.2010 had arrived at a finding that the other 10 persons are also not qualified for appointment as Assistant Electrical Wireman as per the said Government Order and only the petitioner has been discriminated. The Writ Court further found that the petitioner was holding Helper Certificate issued by the Tamil Nadu Electricity Board and he is entitled to be appointed as Assistant Electrical Wireman like others.

4.The learned Single Judge had directed the respondent to pass appropriate orders approving the appointment of the petitioner either as Assistant Electrical Wireman or Air Conditioner Operator within a period of four weeks from the date of receipt of a copy of that order. This order is under challenge in the present writ appeal.



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5. According to the learned Special Government Pleader appearing for the appellants, as per G.O.Ms.No.255, dated 28.06.2010, a person should possess Industrial Training Institute (ITI) certificate in Electrical Trade issued by the Government or Government recognized institution for the post of Assistant Electrical Wireman and Industrial Training Institute (ITI) certificate in Wireman Trade issued by the Government or Government recognized institution for the post of helper. The writ petitioner is not holding any certificate from Industrial Training Institute. He is holding a certificate issued by the Tamil Nadu Electricity Board, which is not a recognized one as per the Government Order.

6. He further contended that when the orders of regularization were passed in favour of other ten persons, they were holding certificates from the government recognized ITI. Therefore, the name of the writ petitioner was not considered for regularization. He further pointed out that the learned Single Judge has not considered the fact that the writ petitioner was not possessing any qualification on the date, when he sought for regularization of his services.



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7.Per contra, the learned counsel for the writ petitioner/respondent had submitted that out of the other 10 persons, whose services were regularised, three of them were junior to the writ petitioner and some of them were not possessing the required qualification as per the government order, dated 28.06.2010.

8.From the contention of the learned counsel for the writ petitioner/respondent, it is clear that the petitioner is not having required qualification for being appointed as Assistant Wireman or as Helper, either on the date of his appointment or on the date, when he sought regularization of his services. His request for regularization was only based upon the fact, that the services of others, who were not possessing the required qualification, have been regularised.

9.Even assuming that the other persons, who have been regularised, did not possess any qualification as per G.O.Ms.No.255 dated 28.06.2010, the petitioner cannot seek any equality in the alleged



illegality said to have been committed by the official respondents and therefore, the order of the learned Single Judge relying upon the regularization granted to others, is not legally sustainable, especially in view of the fact that the writ petitioner was not holding requisite qualification.

10. For the reasons stated above, the order made in the writ petition is liable to be set aside. This Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

11. Now, it has been brought to our notice that the Assistant Electrical Wireman and Helpers have been appointed without having requisite qualification as contemplated under G.O.Ms.No.255, dated 28.06.2010. Hence, the appellants herein are directed to file a status report with regard to the names, date of appointment and qualification possessed by the Assistant Electrical Wireman and Helpers, who are now serving in the temple on or before 25.07.2023.



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12.List this Writ Appeal on 25.07.2023.

**[A.S.M.J.,] & [R.V.J.,]
07.07.2023**

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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Order made in
W.A.(MD)No.66 of 2014

Dated:
07.07.2023