

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE SUNIL THOMAS

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

WP(C) .No. 7206 of 2012 (A)

PETITIONER(S) :

1. THE MALABAR DEVASWOM STAFF UNION
REG.NO.13/10/2000, (AFFILIATION NO.12107),
HEAD OFFICE, CHIRAKKAL,
REP. BY ITS UNION GENERAL SECRETARY,
V.V.SREENIVASAN, RESIDING AT GOURI NIVAS
NEAR ANNAPOORNESWARY TEMPLE,
CHERUKUNNU P.O., KANNUR.
2. P.K.BALAGOPALAN
SECRETARY, MALABAR DEVASWOM STAFF UNION
PADINJAREKANATHIL HOUSE, MUTHUNGAL P.O.,
VADAKARA
KOZHIKODE.
3. C.NARAYANANNABOOTHIRI
CHALAKUNNATHU HOUSE, SREESTHA P.O.,
PAZHAYANGADY
KANNUR DISTRICT.
4. SAJEEVAN P.K.
KANATHIL HOUSE, ELAVALLY P.O.,
THRISSUR DISTRICT.

BY ADVS.SRI.RAJU JOSEPH (SR.)
SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN
SRI.ROY JOSEPH

RESPONDENT(S) :

1. STATE OF KERALA
REP. BY ITS SECRETARY, REVENUE (DEVASWOM) ,
SECRETARIAT
THIRUVANANTHAPURAM-695 001.

WPC7206/12

2. MALABAR DEVASWOM BOARD
REP. BY ITS COMMISSIONER AND SECRETARY,
ERANHIPALAM
KOZHIKODE-673 006.
3. COMMISSIONER
MALABAR DEVASWOM BOARD, ERANHIPALAM
KOZHIKODE-673 006.

R2-R3 BY ADV. SRI.N.MANOJ KUMAR, SC, MALABAR DEVASWOM
R2 & R3 BY ADV. SRI.V.KRISHNA MENON, SC,
MALABAR DEVASWOM BOARD
R1 BY ADV.A.RENJITH, GOVERNMENT PLEADER
R2 & R3 BY ADV. SRI.K.R.SUNIL, SC,
MALABAR DEVASWOM BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11-06-2015, ALONG WITH WP(C)27543/12, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

WPC7206/12

APPENDIX

PETITIONERS' EXHIBITS

P1 : COPY OF GOVERNMENT ORDER AS GO(MS)116/09/RD DATED
28.02.2009.

P2 : COPY OF RELEVANT EXTRACT OF THE PAY REVISION ORDER OF
TRAVANCORE DEVASWOM BOARD REGULAR EMPLOYEES AND TEMPLE
EMPLOYEES DATED 01.07.2011.

P3 : COPY OF NOTIFICATION NO.9366/B1/2006/LBR DATED
31.01.2011.

//TRUE COPY//

PA TO JUDGE.

jg

THOTTATHIL B.RADHAKRISHNAN &
SUNIL THOMAS, JJ.

.....
WP(C) Nos.7206 and 27543 of 2012
.....

Dated this the 11th day of June, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. Heard.

2. Petitioners claim that they represent employees of different temples in erstwhile Malabar area. Their grievance is that many of the employees of different temples in Malabar area are exceptionally marginalized in terms of income by way of salaries. The stark reality that reflects from situations of the temple employees in the erstwhile Malabar area is elaborated by this Court through the judgment in re : Temples in the erstwhile Malabar area [AIR 1995 Kerala 172].

3. With the passage of time, the Madras Hindu Religious and Charitable Endowments Act, 1951, "Act", for short, has been amended by the 2008 Act. There is Malabar Devaswom Board in place. We are not sure whether the avowed expectation that this

Court expressed through the aforementioned judgment that such Board should be constituted by depoliticizing the working of such establishment, has been given effect to. Be that as it may, the cry of the employees of the temples in Hindu religious institutions in Malabar area continues.

4. These writ petitions are filed trying to demonstrate that there is disparity in the pay structure of different categories of employees working in different types of temples. Going by the Government Orders which are impugned in these writ petitions, it can be seen that the temples are classified in different groups. Classification of temples for management in terms of the Hindu Religious Institution Management Process through different legislations which are in force tends to indicate that they can be classified on different bases; including the income that is reflected, the number of pilgrims or visitors who come to a particular temple or religious institution and different other relevant yardsticks. The nature of rituals and the span of time through which the ritualistic process would get spread out etc. may also be relevant criteria. Be that as

it may, no issue could be made out to attack the classification of the temples. The petitioners stand to say that when equal work is done under temples falling under different categories, there has to be the doctrine of equal pay also being applied. We have given our anxious consideration to this submission. We think that there cannot be an omnibus acceptance of any such principle. The doctrine of equal pay for equal work would apply in relation to an equation that could be drawn regarding the nature, quality and quantity of work vis-à-vis different aspects, including the nature and place of work. It is an accepted doctrine that equality has to be found on all fours in relation to work before one could push in the principle of equal pay to be applied in favour of the working class.

5. The learned senior counsel appearing for the petitioners attempted to put forward an argument based on the Equal Remuneration Act, 1976. That is a predominant legislation which is intended to ensure equal pay for equal work in equal circumstances without any distinction on the basis of sex.

Scanning the said Act, we do not find that except an inhibition created against lowering the existing pay pattern, there is no question of any statutory covenant therein which protects or tries to insulate against inequality in pay among different classes of employees. We think that it would be wholly misplaced, if we were to apply that statute to the issue in hand.

6. In clear distinction to the nature of management of temples and religious institutions in the erstwhile Travancore and Cochin area, insofar as the Malabar area is concerned, such institutions stand by themselves and as not institutions which fall for administration as is done in the Travancore or Cochin area. The managing trustees or trustee boards are in full control of the temples in Malabar area, subject of course, to the regulatory process that would be carried out through the MDB in lieu of the powers that were being exercised by the Devaswom Commissioner in terms of the Act as it stood before the amendment. In this view of the matter, we are unable to find that there is any way of comparing the employees of the temples of

Malabar area to the employees of the temples of the other areas to make out a case of discrimination based on the doctrine of equal pay for equal work.

7. Notwithstanding what we have aforesaid, the fact of the matter remains that the final request of the petitioners is that there has to be a fair provision to support the life and living conditions of the employees of temples in Malabar area, particularly those who work in the lower levels and lower rungs and those who have been identified to be working in temples which are classifying as among the last included groups for the purpose of management and control. We think that though two decades have passed after the aforesaid judgment was issued by this Court, much has not happened except the aforementioned amendment to the Act. We were told at one point of time that a Committee has been constituted or a Commission has been issued to look into the matter. The institutional governance mechanism can keep on looking. They can keep on thinking, they can keep on pondering, they can keep on planning, they can keep on budgeting and they can keep on

drawing plans for years together. But the ultimate requirement is to ensure that the people for whom such committees are constituted get the minimum required relief in the shortest possible time.

In the aforesaid circumstances, while we do not find any ground to interfere with the impugned Government Order as such, we think that the Government has to put in place a modality whereby the MDB will get the authority to ensure that employees of the temples in the erstwhile Malabar area get a legitimate due through the authorities in management of those institutions. This has to be done by taking the managing trustees or trustee boards of those temples also into confidence. The employees should necessarily have a say, since they have to express their grievances as well. We, therefore, direct the Government to constitute appropriate authority following this judgment and empower such authority with sufficient power to decide on such issues as may be relevant to bring reliefs and have a structure put in place, so that the MDB and the Commissioner, MDB would have sufficient

regulatory power over the different temples in Hindu religious institutions in the erstwhile Malabar area in relation to salaries and other payments to be made to the employees concerned. Any decision of such authority shall be taken only after an opportunity of hearing is extended by inviting objections from the public as well as those in management of different temples which fall under the superintendence of MDB. Such action shall follow, without fail, by issuance of appropriate Governmental decision within 45 days from today, so that, any authority so constituted can look into the matter and do the needful without further delay. The Government will place a copy of its decision before the Registrar General of this Court to report compliance of this judgment. These writ petitions are ordered accordingly.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(SUNIL THOMAS, JUDGE)