



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2017

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD)No.5182 of 2014

and

M.P.(MD)No.1 of 2014

N.Manikandan

.. Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. By its Secretary,
H.R.&C.E., Department,
Fort St.George, Chennai - 600 009.

2. The Commissioner,
Hindu Religious & Charitable Endowments Dept.,
Utthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 006.

3. The Deputy Commissioner/Executive Officer,
Arulmighu Subramaniaswamy Thirukoil,
Thiruparangundram, Madurai - 625 005. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent culminating in the order, dated 27.11.2013 made in Na.Ka.No.3355/2013/A1 and quash the same and consequently direct the third respondent to grant compassionate appointment to the petitioner on consideration of the representation, dated 08.11.2013, made on his behalf.

For Petitioner	:	M/s.G.Thilakavathi, Senior Advocate, for Mr.P.Balamurugan.
For R-1 & R-2	:	Mr.C.Selvaraj, Special Government Pleader.
For R-3	:	Mr.S.Manohar

O R D E R

This Writ petition is filed by the petitioner challenging the impugned order passed by the third respondent, in Na.Ka.No.3355/2013/A1, dated 27.11.2013, and to direct the third respondent to grant compassionate appointment to the petitioner.



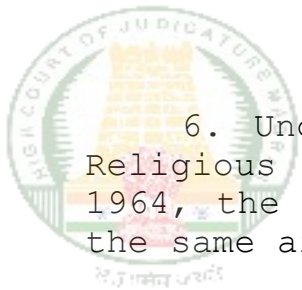
2. Heard the learned Senior counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.

3. By the impugned order in Na.Ka.No.3355/2013/A1, dated 27.11.2013, the third respondent rejected the application filed by the petitioner, seeking appointment on compassionate ground. The petitioner's father was a "Daval Vidhwan" (தவில் விதவான்) employed in the third respondent temple and died in the year 2010 while he was in service. The petitioner was also a "Daval" (தவில்) Player and he also learned to play "Nathaswaram", a musical instrument. The petitioner is also qualified by undergoing a musical course at Madurai Government Musical College. Since the petitioner's family was living in indigent circumstances, the petitioner applied for appointment on compassionate ground. The application was submitted within the time and it was also earlier recommended by the "Thakkar" of the temple. However, by the impugned proceedings, the request of the petitioner for compassionate appointment was rejected only on the ground that the petitioner not even passed 6th Standard, does not have the educational qualification. The impugned order does not refer to any of the rules. This Writ petition is opposed by the respondents, reiterating the same stand that the petitioner is not having the prescribed qualification.

4. The learned counsel appearing for the third respondent refers to Tamil Nadu Hindu Religious Institutions (Officers and Servants) Services Rules, 1964, and Rule 13 of the Rules is pressed into service by the learned counsel for the third respondent, to support the stand that the petitioner does not have the educational qualification for being appointed as a "Daval" Player or a "Nathaswaram" Player.

5. Rule 13 of Tamil Nadu Hindu Religious Institutions (Officers and Servants) Services Rules, 1964, is extracted as follows:-

"13. Qualification for outdoor servant.-The minimum general educational qualification prescribed for entry into the Tamil Nadu Ministerial service shall be the qualification for appointment to the posts of outdoor servants to whom the duties of maintenance and custody of accounts, collection of income and custody of cash and other valuables are entrusted. The qualification prescribed for the entry into Government service for the posts of Record clerks and Office Assistants shall apply to the other categories of like nature of posts



6. Under section 2(e) and Section 2(f) of Tamil Nadu Hindu Religious Institutions (Officers and Servants) Services Rules, 1964, the term indoor servant and outdoor servant are defined and the same are also extracted hereunder, for convenience:-

"2(e) 'Indoor Servant' (Ulthurai Servant) means a servant whose duties mainly relate to the performance of rendering assistance in the performance of Poojas, rituals and other services to the deities, the recitation of Mantras, Vedas, Prabandhams, Thevarams and similar invocations and performance of duties connected with such performance or recitation in a religious institution.

2(f) 'Outdoor Servant' means a servant other than an indoor Servant (Ulthurai Servant)."

7. The term indoor servant means, a servant whose duties are related to the performance of Poojas, rituals and other services to the deities. Having regard to the service that is referred to be done by a "Nathaswaram Vidhwan" or a "Davil Vidhwan", the post cannot be termed as an outdoor servant as defined under Section 2 (f) of the Rules. Hence, the minimum general educational qualification prescribed for an outdoor servant cannot be applied and hence, the reasons stated in the impugned order does not go well with the provisions of the Rules referred to by the learned counsel for the third respondent.

8. Hence, the Writ petition is allowed and the impugned order, dated 27.11.2013 passed by the third respondent is therefore set aside and the third respondent is directed to consider the petitioner for being appointed as "Nathaswaram Vidhwan" in the third respondent temple on compassionate ground afresh and pass appropriate orders on merits within a period of six weeks from the date of receipt of a copy of this order. This Court has also observed that any appointment during the pendency of the Writ petition would be subject to the outcome of this Writ petition. Hence, if any appointment during the pendency of this Writ petition, it will not stand in the way of the third respondent considering the petitioner's appointment on compassionate ground purely on merits. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

/True Copy/



To

1. The Secretary,
The Government of Tamil Nadu,
H.R.&C.E., Department,
Fort St.George, Chennai - 600 009.

2. The Commissioner,
Hindu Religious & Charitable Endowments Dept.,
Utthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 006.

3. The Deputy Commissioner/Executive Officer,
Arulmighu Subramaniaswamy Thirukoil,
Thiruparangundram, Madurai - 625 005.

+1cc to M/S.G.Thilakavathi, Advocate SR.No. 62771

+1cc to M/S.S.Manohar, Advocate SR.No. 62619

ORDER MADE IN
W.P.(MD)No.5182 of 2014 and
M.P.(MD)No.1 of 2014
28.06.2017

pmu

JM/MR KKR/SAR 1/03.08.2017/4P/6C