



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 01.02.2017

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.1701 of 2017

MEENAKSHISUNDARAM
PRESIDENT OF TAMILNADU TEMPLE TECHNICAL
STAFF ASSOCIATION (REG.NO.141/1995) 12 K.T.
K.THANGAMANI ST., MUNDIRITHOPPU,
ANNA NAGAR, MADURAI-625 020

...Petitioner

-vs-

1. THE SECRETARY
TOURISM, CULTURE AND RELIGIOUS,
ENDOWMENT DEPARTMENT,
SECRETARIAT, FORT ST.GEORGE,
CHENNAI-600 009.
2. THE COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE
ENDOWMENT DEPARTMENT,
UTHAMAR GANDHI SALAI,
CHENNAI-600 034.
3. THE EXECUTIVE OFFICER
ARULMIGU KALLAZHAGAR TEMPLE,
AZHAGARKOVIL, MADURAI.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the respondents to stop the recruitment process and to recall all the candidates appointed to the post of Joint Commissioner/ Executive Officer Deputy Commissioner/ Executive Officer Asst. Commissioner/Executive Officer and Executive Officer Grade-I to IV under Temple Administration till framing comprehensive service rules U/s.116 of the Tamil Nadu Hindu Religious and Charitable Endowment Act in the light of order Writ Appeal No.1497 & 1561 of 2005 and 968 of 2006 dated 22.01.2009 and ensure and to safeguard the rights of the employees of the Temple under the 2nd respondent and to regularize their service by taking note of Section 12 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, by considering his representation dated 21.12.2016 within the period stipulated by this Hon'ble Court.

For Petitioner	:	Mr.A.Haja Mohideen
For R1 & R2	:	Mr.S.Sathish Kumar
	:	Addl. Govt. Pleader
For R3	:	Mr.S.Manohar



O R D E R

This writ petition has been filed, seeking to direct the respondents to stop the recruitment process and to recall all the candidates appointed to the post of Joint Commissioner/Executive Officer, Deputy Commissioner/ Executive Officer, Assistant Commissioner/Executive Officer and Executive Officer Grade-I to IV under Temple Administration till framing Comprehensive Service Rules under Section 116 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, in the light of the order in Writ Appeal No.1497 & 1561 of 2005 and 968 of 2006 dated 22.01.2009 and ensure and to safeguard the rights of the employees of the Temple under the 2nd respondent and to regularize their service by taking note of Section 12 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, by considering his representation dated 21.12.2016.

2. According to the petitioner, the 3rd respondent, without framing necessary service rules, had commended the recruitment process in a hurry manner to fill up five posts, Wireman, Plumber, Assistant Wireman, Sub-Temple Archakar and Poojari at Melur Nagar and Cholavandan in Madurai District respectively, which would be detrimental to the members of the petitioner Association and that the petitioner has submitted a representation dated 21.12.2016 in this regard and since no decision has been taken thereon so far, the petitioner is before this Court with the relief stated supra.

3. Heard the learned counsel on either side.

4. While going through the contents in the representation, it is very unfortunate to note that the petitioner has no legal right to ask for such prayer, namely, stalling of recruitment process and there is no need for the respondents to answer the petitioner on irrelevant issues being raised in the form of representation.

5. When I was a part of Division Bench, dealing with the issue of disposal of representation, I had an occasion to refer to the judgment of the Hon'ble Apex Court in the case of **Union of India v. M.K.Sarkar**, reported in **(2010) 2 SCC 59** in the order **dated 17.02.2014 W.P. (MD) No.20006 of 2013**, wherein the Hon'ble Supreme Court was pleased to hold as under:

"14.The order of the Tribunal allowing the first application of respondent without examining the merits, and directing the appellants to consider his representation has given rise to unnecessary litigation and avoidable complications. The ill-effects of such directions have been considered by this Court in C.Jacob v. Director of Geology and Mining [(2008) 10 SCC 115] Para 9.

"9.The courts/tribunals proceed on the assumption that every citizen deserves a reply to his representation. Secondly, they assume that a mere direction to consider and dispose of the representation does not involve any 'decision' on rights and obligations of parties. Little do they realise the consequences of such a direction to 'consider'. If the representation is considered and accepted, the ex-employee



gets a relief, which he would not have got on account of the long delay, all by reason of the direction to 'consider'. If the representation is considered and rejected, the ex-employee file an application/writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The tribunals/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored."

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16. A court or tribunal, before directing "consideration" of a claim or representation should examine whether the claim or representation is with reference to a "live" issue or whether it is with reference to a "dead" or "stale" issue. If it is with reference to a "dead" or "stale" issue or dispute, the court/tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or tribunal deciding to direct "consideration" without itself examining the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect."

6. In view of the same, the petitioner is not entitled to the relief sought in the writ petition and the writ petition deserves to be dismissed. Accordingly, the same is dismissed as devoid of merits. No costs.

Sd/-

Assistant Registrar (Writs)

/TRUE COPY/

Sub Assistant Registrar

To:

1. THE SECRETARY
TOURISM, CULTURE AND RELIGIOUS,
ENDOWMENT DEPARTMENT,
SECRETARIAT, FORT ST. GEORGE,
CHENNAI-600 009.

<https://hcservices.ecourts.gov.in/hcservices/>

2. THE COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE
ENDOWMENT DEPARTMENT,
UTHAMAR GANDHI SALAI,
CHENNAI-600 034.



3. THE EXECUTIVE OFFICER
ARULMIGU KALLAZHAGAR TEMPLE,
AZHAGARKOVIL, MADURAI.

+1 cc to MR.S.MANO HAR ADVOCATE, SR NO:5842

+1 cc to MR.A.HAJA MOHIDEEN ADVOCATE, SR NO:5517

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO:6397

W.P. (MD) No.1701 of 2017
01.02.2017

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