



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) No.745 of 2013

and

W.M.P. (MD) No.1 of 2013

The Joint Commissioner /Executive Officer,
A/m.Dhandayuthapani Swami Temple,
Palani Dindigul District.

.. Appellant

Vs.

1.S.Muthuraja

2.The Commissioner,
Hindu Religious and Charitable Endowment Dept,
Nungambakkam, Chennai - 600 034.

3.C.S.Mari Balaji

.. Respondents

PRAYER: Petition filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.(MD).No.5137 of 2009 dated 25.04.2013.

Prayer in WP(MD) . 5137/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, calling for the records from the 2nd respondent made in Na.Ka.No.10818/2009-2/Z3, dated 12.3.2009, quash the same and direct the 2nd respondent to promote the petitioner to the post of Junior Engineer after fixing him in time scale of pay.

For Appellant : Mr.Devaraj

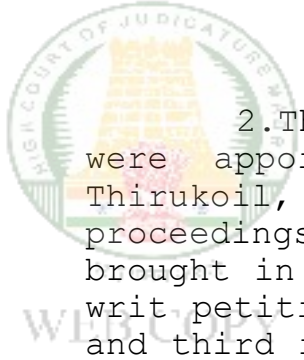
For Respondents 1 and3 :Mr.P.T.S.Narendravasan

For Respondent 2 :Mr.T.S.Mohammed Mohideen
Additional Government Pleader

O R D E R

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

This Writ Appeal is directed against the order dated 25.04.2013 allowing the writ petition in W.P.(MD).No.5137 of 2009 dated 25.04.2013 filed by the first respondent herein.



2. The first respondent as well as the third respondent herein were appointed as Technical Assistant in A/M Thandayuthapani Thirukoil, Palani on 28.10.2003 on consolidated pay. While so, vide proceedings dated 16.03.2007, the third respondent herein alone was brought in to regular timescale of pay. This was objected to by the writ petitioner/ first respondent herein. He contended that both he and third respondent Mari Balaji were appointed on the same day and therefore there cannot be any showing of preference to the third respondent alone. Since his request was not considered, he filed W.P.No.977 of 2000. Pursuant to the direction given by this Court in the said writ petition, the appellant herein took up the case of the writ petitioner/first respondent, but rejected the same vide proceedings dated 12.03.2009. the said order was set aside in W.P. (MD).No.5137 of 2009 Hence, this intra - Court appeal .

3. The learned counsel appearing for the appellant Temple contended that the Government of Tamil Nadu issued G.O.Ms.No.255, Tamil Nadu Hindu Religious institutions (Officers and Servants) Service Rules, 1964, dated 28.06.2010 and therefore, the case of the petitioner will have to be tested with reference to the said service rules. This contention cannot be accepted for the simple reason that the cause of action projected in the writ petition is of the year 2008. The amended rules came into force only on 28.06.2010.

4. According to the writ petitioner, he and Mari Balaji were borne on the same cadre and thereafter, placing the third respondent alone in the regular timescale of pay overlooking the writ petitioner is discriminatory. The learned single Judge has specifically given a finding that the Temple management had not assigned any reason for treating the petitioner and Mari Balaji differently. Both were initially on daily wages. Both were subsequently appointed on consolidated pay. Both remitted the security deposit of Rs.4,000/- on the same day. Both were appointed in the cadre of Technical Assistant.

5. More than anything else as on 06.06.2008, there were two vacancies in the post of Junior Engineer. But, the third respondent herein alone was placed in regular timescale of pay overlooking the writ petitioner. This can only to be termed as an act of discrimination.

6. There was no justification to deny promotion to the writ petitioner to the post of Junior Engineer. The proceedings impugned in the writ petition was rightly quashed and the learned single Judge was justified in issuing direction to the appellant temple management to bring the writ petitioner into timescale of pay by treating him on par with the third respondent herein and to grant him promotion on 06.06.2008, the date on which the third respondent was promoted.

7. We agree with the reasons assigned by the learned single Judge for allowing the writ petition and we find no merit in this



writ appeal. This writ appeal is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Commissioner,
Hindu Religious and Charitable Endowment Dept,
Nungambakkam, Chennai - 600 034.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. NO.67316
+1cc to Mr.R.DEVARAJ Advocate in SR. No.66773
+1cc to Mr.N.SATHISH BABU Advocate in SR. No.67193
+1cc to Mr.R.NANDAKUMAR Advocate in SR. No.66827

MM/DSK
JS/JC/SAR.1/9.8.2017/3P-6C

ORDER MADE IN
W.A. (MD) No.745 of 2013
20.07.2017