



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2017

CORAM :

THE HONOURABLE MR. JUSTICE R. SUBRAMANIANWrit Petition (MD) No. 15278 of 2013

M. Balasubramanian

... Petitioner

Vs.

The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam, Chennai 34.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus, to call for the proceedings of the respondent in Na.Ka.No.11158/2012/U.1, dated 14.05.2012 on the file of the respondent and quash the same with regard to the refusal of arrears of salary and consequently direct the respondent to pay the arrears of salary as per G.O.No.141 dated 21.05.2004 from 01.07.1997.

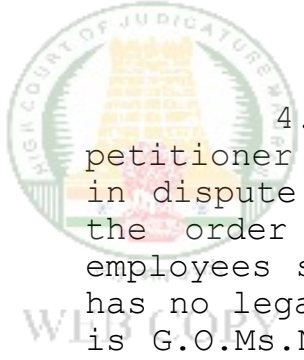
For Petitioner : Mr.N.Sivakumar

For Respondent : Mr.S.Kumar,
Additional Government Pleader.**ORDER**

The petitioner challenges the order of the Commissioner, Hindu Religious and Charitable Endowment Department, dated 14.05.2012 in and by which the claim of the petitioner for re-fixation of salary was accepted but monetary benefits were directed to be paid only with effect from the date of the order namely, 14.05.2012.

2.The petitioner claims that he was appointed as Othuvar at Arulmigu Bagavathiamman Temple at Kanyakumari on 01.09.1983 in regular scale of pay and his pay was refixed by the Government in G.O.Ms.No.141, dated 21.05.2004. The petitioner claims that he is entitled to pay of Othuvar as fixed by G.O.Ms.No.141 at Rs.3,200-85-4900. The request of the petitioner was rejected on the ground that the temple in which the petitioner is working is minor temple and therefore, G.O.Ms.No.141 cannot be made applicable.

3.The petitioner approached this Court by way of W.P.(MD) No.2180 of 2007 wherein this Court categorically held that Arulmigu Bagavathiamman Temple at Kanyakumari is not minor temple but a major temple. Having held so, this Court remitted the matter to the respondent to consider the claim of the petitioner. This Court has also observed that the uninterrupted continuous service of more than 28 years should be taken into account. Thereafter, the respondent has passed the impugned order.



4.The facts are not in dispute. The fact that the petitioner is entitled to the benefit of G.O.Ms.No.141 is also not in dispute. The reasoning given by the respondent and the basis of the order of the respondent is that the salaries paid to the employees should not exceed 25% of the total expenses of the temple has no legal basis. The Government Order which is said to be a basis is G.O.Ms.No.257 wherein it is stated that it is proposed to bring about an amendment to the Act to set right the anomalies in the salaries payable to the temple employees. But a reading of G.O.M.No.257 does not show that any ceiling has been fixed on the salaries payable to the employees of the temple. The Government itself has passed G.O.Ms.No.141 and has fixed salaries payable to the employees of major temples. The temple in question namely, Arulmigu Bagavathiamman Temple at Kanyakumari has been found to be major temple by this Court in the earlier proceedings and the said order has become final. Therefore, the respondent was not right in postponing the monetary benefits for the petitioner almost for a period of eight years. Accordingly, the restriction imposed in the impugned order to the effect that the petitioner will not be entitled the arrears of salary and pay will be fixed from the date of the order impugned in this writ petition that is on 14.05.2012 is unreasonable and therefore, that portion of the order is set aside. The writ petition is allowed. Rule nisi is made absolute. There will be a direction to the authorities to calculate the salary of the petitioner at the rate fixed in G.O.Ms.No.141, 21.05.2004 with effect from the date of Government Order and disburse the same within a period of four months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam, Chennai 34.

+1cc to Mr.N.SIVAKUMAR Advocate in SR. No.61984
SMS
JS/MR/KKR/SAR.3/7.7.2017/2P-3C

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