

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.11601 of 2013

ORDER:

Heard.

2. The present Writ Petition came to be filed seeking issuance of writ of mandamus, declaring the action of the respondent in not re-appointing the petitioner as a room boy, in respondent-Devasthanam, to maintain the rooms in the three choultries in Annavaram, as illegal and arbitrary.

3. The averments in the affidavit filed in support of the writ petition would show that the respondent is a famous pilgrimage temple and every year lakhs of devotees visit this temple located at Annavaram. It is stated that the petitioner joined as a room boy in the year 1998 and worked continuously till 2009. Apart from room service, the respondent used to get other works done through the room boys. It is stated that in the year 2006, the petitioner and other room boys filed W.P.No.20694 of 2006 before this Court, seeking regularization of their services and also for higher wages. By an order dated 29.09.2006, an interim order came to be passed stating that the petitioners shall continue on the same terms and conditions, pending further orders. Subsequently, it is stated that the petitioner suffered from multiple attacks of joint pains and could not work from 2009 to 2011. It is stated that he took treatment from panel doctor of the respondent-Devasthanam and could not attend duties for several months. Soon after his recovery, when the petitioner approached the respondent for re-appointment, his request was not considered, inspite of producing the medical certificate. The inaction of the respondent in re-appointing the petitioner as room boy, is a subject matter of challenge in the present writ petition.

4. A counter affidavit came to be filed stating that the petitioner is not working as room boy from 2009 till date and that he was working as room boy in the temple on daily wage basis. There was no employer-employee relationship between the petitioner and the temple. Whenever, the services of the persons like petitioner were required, the same was utilized by paying amount on daily basis, basing on the requirement. The fact of granting interim direction in W.P.No.20694 of 2006 is not disputed in the counter. It is further stated that as the petitioner stopped coming to the temple and remained absent without informing the temple authorities, an alternate arrangement was made and services from others were utilized on daily basis from 2009 till date. Further, it is stated that there is no requirement for engaging room boys on daily wages as the room boys working now are more than the actual requirement and hence the petitioner cannot be taken back now, after a lapse of seven years. It is only due to laches on the part of the petitioner that his services were disconnected and now he cannot seek the relief of taking back into the service at this length of time.

5. The averments in the writ affidavit clearly indicates that the petitioner himself stopped working from the year 2009 and for nearly three years, he failed to attend his duties for the reason that he was suffering from illness. On the other hand, counter filed by the respondents would show that the petitioner failed to attend his duties from 2009 till date, without giving any explanation to the authorities, about his absence. It is further stated that already regular appointments are made and there is no necessity to engage the petitioner on daily wages, as the room boys working on daily basis are more in number than actually required. No reply is filed to the counter.

6. Taking into consideration the factual aspects, I am not inclined to consider the request of the petitioner. Further, if really the petitioner was unable to attend to his duties for a period of three years and was taking treatment from a doctor, nothing prevented him from informing the authorities, the reason behind his absence for such a long period. Moreover, the material papers filed does not indicate whether the appointment of the petitioner was on regular basis and hence there is an amount of doubt as to the existence of the employer-employee relationship.

7. Accordingly, the writ petition is dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.



JUSTICE C. PRAVEEN KUMAR

17.04.2017
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