



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.236 of 2014

and

MP(MD)No.1 of 2014

K.Kannaki

... Petitioner

Vs.

1. The Commissioner,
Tamilnadu Hindu Religious Charitable
and Endowments Department,
Chennai - 600 034.

2. The Joint Commissioner, Executive Officer,
Arulmigu Subramaniasamy Thirukovil,
Thiruchendur, Thoothukudi District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the second respondent in Na.Ka.No.2706/2013/A2-1 dated 04.10.2013 and quash the same and consequently direct the respondents to promote the petitioner to the post of Assistant.

For Petitioner : Mr.A.Thirumurthy
for Mr.G.Gomathi Sankar
For Respondents : Mr.J.Gunaseelan Muthaiah,
Additional Government Pleader for R 1
Mr.M.Muthugeethayan for R2

ORDER

The petitioner is working as a Librarian in the second respondent temple since 24.09.1996. The grievance of the petitioner is that she is languishing in the said post for all these years without any promotion. The petitioner seeks promotion to the post of Assistant on the ground that she is having all the requisite qualifications to be appointed as an Assistant. But then, even though the second respondent temple forwarded the proposals in favour of the petitioner, the same was rejected by the first respondent on more than one occasion. Therefore, when the petitioner reiterated her request, the impugned order came to be passed once again rejecting the case of the petitioner and the same was communicated to her. That is under challenge in this writ petition.

2.Heard the learned counsel on either side.

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

3.The learned counsel appearing for the second respondent submitted that the post of Assistant can be filled up only in terms



of the relevant recruitment rules. The post of Librarian is admittedly not a feeder category for promotion to the post of Assistant. Therefore, the petitioner cannot make a request that is not in consonance with the rules in question.

4. This Court has to necessarily accept the submission made by the learned counsel for the second respondent. But then, the fact remains that the petitioner is languishing in the very same post for the last 22 years. The Hon'ble Supreme Court in the decision reported in **(2004) 9 SCC 65 (State of Tripura vs. K.K.Roy)** held that a state within the meaning of Article 12 of the Constitution of India should create promotional avenues for an employee. In fact, in the operative portion of the said judgment, it was directed that the authorities should confer on the employee in question higher scale of pay upon his completion of 12 years and 24 years in service. It means, to avoid stagnation in a post, selection grades and special grades of pay should be introduced. Of course, there is still a moot question whether the second respondent temple can be termed as a State within the meaning of Article 12 of the Constitution of India.

5. Be that as it may, this Court is of the view that in the facts and circumstances of the case, the respondents are obliged to relieve the petitioner of the pain of stagnation in a given post. Even while sustaining the impugned order which states that the petitioner cannot be promoted to the post of Assistant, the respondents are directed to pass appropriate orders providing for at least two promotional opportunities to the petitioner as laid down in the decisions of the Hon'ble Supreme Court reported in **(2004) 9 SCC 65 (State of Tripura vs. K.K.Roy)** and **1988 (Supp) SCC 519 (Raghunath P.D. Singh v. Secretary, Home (Police) Deptt.)**

6. The learned counsel for the second respondent submitted that the case of temple employees is rather peculiar and that it is depending on the budget constraints. But, such an objection may not be sustainable in the case of the second respondent temple. Considering the peculiar and special circumstances of this case, the aforesaid direction is issued. The first respondent shall pass such an order within a period of four weeks from the date of receipt of a copy of this order.

7. This writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(SAR-IV)

To

1. The Commissioner,
<https://hcservices.ecourts.gov.in/hcservices/>
Tamilnadu Hindu Religious Charitable
and Endowments Department, Chennai - 600 034.



2. The Joint Commissioner, Executive Officer,
Arulmigu Subramaniasamy Thirukovil,
Thiruchendur, Thoothukudi District.

+1cc to Mr.M.Muthugeethayan, Advocate Sr.No.47630
+1cc to Mr.G.Gomathi Sankar, Advocate Sr.No.47620
+1cc to Spl.Government Pleader Sr.No.48238

SKM

VB/SV/SAR4/24.07.2018/3P/6C

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