



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.(MD) No.1324 of 2016
and
C.M.P.(MD) No.9404 of 2016

The Executive Officer
Arulmigu Anjaneyar Thirukoil
Krishnarayar Teppakulam Road
Madurai-1

... Petitioner

-vs-

1.K.Thiagarajan

2.The Special Commissioner and Commissioner
Hindu Religious and Charitable Endowments
(Administration) Department
Nungambakkam High Road
Chennai-600 034

3.The Joint Commissioner
Hindu Religious and Charitable Endowments
(Administration) Department
Madurai

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 21.07.2016, passed in W.P.(MD) No.7003 of 2013, on the file of this Court.

Prayer in WP(MD). 7003/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS or any other appropriate writ or order or direction particularly in the nature of writ, calling for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No.10165/2013/G4, dated 27.03.2013, quash the same and direct the 1st respondent to regularize the petitioners service as a permanent watchman in the 3rd respondent office at least with effect from 24.03.1999.



For Appellant : Mr.S.Manohar

For Respondent No.1 : Mr.R.Subramanian

For Respondents No.2&3 : Mr.D.Muruganandam

Addl. Govt. Pleader

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J U D G M E N T

[Judgment of the Court by T.S.SIVAGNANAM, J.]

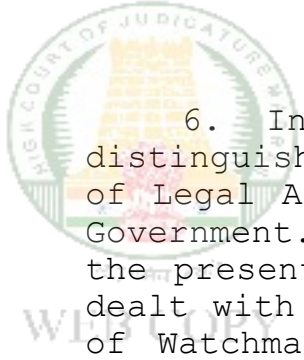
Heard Mr.S.Manohar, learned counsel appearing for the appellant, Mr.R.Subramanian, learned counsel appearing for the first respondent and Mr.D.Muruganandam, learned Additional Government Pleader appearing for the respondents 2 and 3 and perused the materials produced.

2. This appeal is directed against the order, dated 21.07.2016, passed in W.P.(MD) No.7003 of 2013, filed by the first respondent. The prayer sought for in the writ petition was to quash the order, dated 27.03.2013, passed by the second respondent, namely, the Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments (Administration) Department, Madurai, and to direct the appellant herein to regularize the first respondent / writ petitioner as a permanent Watchman in the appellant's Temple.

3. The reason for not granting such a relief by the second respondent herein in the impugned order, dated 27.03.2013, was on account of the fact that the first respondent / writ petitioner did not possess the requisite qualification of eighth standard. The Writ Court, after taking into consideration the submissions made on either side, noted the recommendations made by the third respondent herein, dated 24.03.1999, 30.05.2000 and 12.12.2001 for permanent absorption of the first respondent / writ petitioner as a Watchman. Further, the Writ Court overruled the objection raised by the appellant that the first respondent / writ petitioner does not possess eighth standard qualification. The Writ Court was convinced that the first respondent / writ petitioner was working for 17 years and he cannot be denied the benefit of regularization on the ground of non-possession of requisite educational qualification.

4. As noticed above, the employment of the first respondent / writ petitioner is not in dispute. That apart, the third respondent herein has made recommendations for permanent absorption of the writ petitioner, which could have been considered in a fair manner. Thus, for all the purposes, the first respondent / writ petitioner should be treated as a permanent employee and he is entitled to the benefits payable to an employee working in a Temple, which is very meagre.

5. The learned counsel appearing for the appellant, in support of his contentions, placed reliance upon the decision in *State of Maharashtra vs. Anitha*, reported in AIR 2016 SC 3333.



6. In our considered view, the above cited decision is distinguishable on facts as it pertains to regularization of service of Legal Advisors, Law Officers and Law Instructors created by the Government. We feel that the appellant is not justified in taking the present case to such a level as regard the dispute, which was dealt with by the Honourable Supreme Court. Afterall, it is a case of Watchman, who has rendered unblemished service ever since his appointment and attained the age of superannuation on 31.03.2016. Therefore, we do not find any error in the impugned order warranting interference.

7. At this juncture, the learned counsel for the appellant submitted that the Temple would be put into great financial hardship, if the first respondent / writ petitioner is paid the regular wages with retrospective effect. In any event, the difference between the consolidated wage and that of the wages payable to the Temple employee may not be very much. However, in view of the difficulty expressed by the appellant, we direct the first respondent / writ petitioner to receive the amount payable to him in four equal installments. Out of the four installments, the first installment shall be paid on or before 16.04.2018.

8. The writ appeal is dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub-Assistant Registrar

To

1.The Special Commissioner and Commissioner
Hindu Religious and Charitable Endowments
(Administration) Department
Nungambakkam High Road, Chennai-600 034

2.The Joint Commissioner
Hindu Religious and Charitable Endowments
(Administration) Department , Madurai

Copy to: The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai (2 copies)

+One cc to R.Subramanian, Advocate, SR.No.47967
+One cc to Mr.S.Manohar, Advocate, SR.No.48563
+One cc to The Special Government Pleader, SR.No.48217
krk

RL/8C/3P/CVC/SAR1/2/3/2018

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