



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2018

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.12723 of 2011

and

M.P.(MD)Nos.1 and 2 of 2011

S.Kannan

... Petitioner

Vs.

1.The Commissioner,
HR & CE Department,
Chennai - 600 034.

2.The Executive Officer,
Arulmighu Gowmariamman Temple,
Veerapandi, Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records in Mu.Mu.No.41608/2011/G4 dated 23.08.2011 passed by the 1st respondent and the consequential order of the 2nd respondent dated 24.08.2011 and quash the same and consequently direct the 1st respondent to reinstate the petitioner into the service with all consequential service benefits.

For Petitioner	:	Mr.P.Veerabaku
For R1	:	Mr.M.Muthu
		Additional Government Pleader
For R2	:	Mr.S.Manohar

O R D E R

The appointment order issued by the second respondent in proceedings dated 24.08.2011 is under challenge in this writ petition. Further direction is sought for is to reinstate the petitioner with all consequential benefits.

2.The learned counsel appearing on behalf of the writ petitioner strenuously contended that the writ petitioner is entitled to be reinstated in service, pursuant to the order of appointment issued by the second respondent to him in his proceedings dated 18.08.2011. The short facts necessary to be considered in this writ petition is that the writ petitioner was appointed as Driver on consolidated pay of Rs.6,000/- per month with effect from 18.08.2011, as per the proceedings of the first respondent dated 16.08.2011. The writ petitioner joined duty on 18.08.2011. Immediately after seven days, the authorities found that the appointment of the writ petitioner is improper and accordingly,



passed an order of cancellation of appointment in proceedings dated 24.08.2011, stating that the appointment order was cancelled in the interest of temple administration and in public interest and no other reason has been stated.

3. The learned counsel appearing for the petitioner states that no notice or opportunity was given and show cause notice was necessary in respect of the cancellation of the appointment order passed. The order of appointment was issued on 18.08.2011. On a perusal of the order, it is stated that the vehicle purchased from and out of the temple funds, was to be operated by a driver and for the purpose of driving the vehicle purchased by the temple, Mr.S.Kannan (writ petitioner) has been appointed on consolidated pay at the rate of Rs.6,000/- per month. On a perusal of the appointment order, it is clear that the same was not made in accordance with the recruitment rules in force. This apart, the appointment is not a permanent appointment and it is only a consolidated pay appointment made by the management of the temple. Thus, the writ petitioner cannot claim any legal right. The appointment order was issued on 18.08.2011 and the same was cancelled within a week, by proceedings dated 24.08.2011. Thus, the petitioner had served in the administration for six days in the temple.

4. Under these circumstances, this Court is of an opinion that no right accrued for the writ petitioner, so as to consider his claim for reinstatement or permanent absorption. No doubt, the appointment order was issued. However, the temple found that it is not feasible to continue the appointment of the writ petitioner in the interest of temple and on public interest the order of appointment was cancelled. Under these circumstances, the writ petitioner has not established any legal right so as to consider his case for permanent absorption or regularization in the post of driver.

5. In this view of the matter, no further adjudication needs to be entertained in respect of the claim of the writ petitioner. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The Commissioner, HR & CE Department, Chennai - 600 034.

+1CC to Mr.S.Manohar, Advocate, SR.No.44389

+1CC to the Special Government Pleader SR.No.44587

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