

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

W.A.No.1114 of 2011
and
M.P.No.1 of 2011

G.Sridharan

... Appellant

Vs

1.The Commissioner,
Hindu Religious and Charitable
Endowment,
Uthamar Gandhi Salai,
Nungambakkam, Chennai - 34.

2.The Joint Commissioner/Fit Person,
B.Raja, Enquiry Officer,
Arulmighu Vadapalani Andavar
Thirukoil, Vadapalani,
Chennai - 26.

3.The Deputy Commissioner/
Executive Officer,
Arulmighu Vadapalani Andavar
Thirukoil, Vadapalani,
Chennai - 26.

... Respondents

Appeal filed under Clause 15 of the Letters Patent against
the order dated 19.01.2011 passed in W.P.No.16672 of 2004.

(Prayer amended vide order dated 12.11.2018 made in
C.M.P.No.17253 of 2018 in W.A.No.1114 of 2011)

Prayer in W.P.No.16672 of 2004:-

Writ Petition filed under Article 226 of the Constitution of
India, to issue a Writ of Certiorarified Mandamus, calling for
the records of the second respondent in so far as the impugned
order dated 26.03.2004 made in Na.Ka.No.86/97 A1 and quash the
same and consequently reinstate the petitioner as a Junior

Assistant in the service of the third respondent temple with continuity of service and monetary benefits thereto.

For Appellant .. Mr.L.Chandrakumar

For Respondents .. Mr.M.Maharaja,
Spl. Govt. Pleader for R1
Mr.S.S.Mathivanan
for Ms.Usha Tholgappian
for R2 & R3

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This writ appeal is directed against the order of the first respondent/Commissioner dated 02.04.2015, confirming the order of the second respondent dated 26.04.2004, by which the services of the appellant were terminated, after framing charges, pursuant to the enquiry conducted.

2.During the pendency of the proceedings before the learned single Judge, the appellant was asked to approach the Commissioner. The Commissioner has also rejected the case of the appellant, which was also subsequently challenged. Thereafter, the learned single Judge dismissed the writ petition inter alia holding that inasmuch as the materials have been taken into consideration, this Court cannot act like an appellate authority and give a different finding.

3.Learned counsel appearing for the appellant would submit that the appellant was not given a copy of the enquiry report. No notice has been served on the proposed punishment.

4.Learned Special Government Pleader appearing for the first respondent would submit that the enquiry was accordingly conducted and the appellant himself made a statement on the earlier occasion, accepting his guilt. Therefore, no interference is required.

5.The facts are not in dispute. Though reliance has been made on the enquiry report, a copy of the same has not been furnished to the appellant nor he was heard thereafter. In such view of the matter, we are of the view that the order of the learned single Judge and the subsequent order of the Commissioner, H.R. and C.E. Department dated 02.04.2015 are required to be interfered with. Accordingly, the aforesaid orders are hereby set aside and the matter stands remitted back to the second respondent for fresh consideration. The second

respondent shall furnish a copy of the enquiry report to the appellant along with a notice accepting the same and proposing to impose a punishment. On receipt of the same, the appellant shall give suitable reply within a period of two weeks. Appropriate orders will have to be passed within a period of six weeks thereafter.

6. With the above direction, the writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi

To

1. The Commissioner,
Hindu Religious and Charitable
Endowment,
Uthamar Gandhi Salai,
Nungambakkam, Chennai - 34.
2. The Joint Commissioner/Fit Person,
B.Raja, Enquiry Officer,
Arulmighu Vadapalani Andavar
Thirukoil, Vadapalani,
Chennai - 26.
3. The Deputy Commissioner/Executive Officer,
Arulmighu Vadapalani Andavar
Thirukoil, Vadapalani, Chennai - 26.

+1 cc to Mr.J.karthikeyan, Advocate Sr.No.7929
+1 cc to M/s.Usha Tholgappian, Advocate Sr.No.7954
+1 cc to The Government Pleader, Sr.No.9413

WEB COPY

W.A.No.1114 of 2011

CSL/14.02.2019