



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.[MD]No.15220 of 2015

and

M.P. [MD]No.1 of 2015

Murugesan

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
(HR & CE Department),
Nungambakkan High Road,
Chennai - 34.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
(HR & CE Department),
Kulavanigapuram, Palayamkottai,
Tirunelveli - 2.

3.The Assistant Commissioner cum Executive Officer,
Arulmighu Thirmalai Kumarasamy Temple,
Panpoli, Senkottai Taluk,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to implement the order of the third respondent passed in his proceedings in Na.Ka.No.793/1415 dated 24.12.2007 and promote the petitioner as "Electrician" in the third respondent Temple retrospectively from 17.08.1989 along with the other consequential monetary benefits within a reasonable period to be fixed by this Court.

For Petitioner : Mr.N.Shankar Ganesh

For Respondents 1&2 : Mr.D.Muruganantham

Additional Government Pleader

For Respondent No.3 : Mr.S.Manohar

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to implement the order of the third respondent in his proceedings in Na.Ka.No.793/1415 dated 24.12.2007 and promote the petitioner as "Electrician" in the third respondent Temple retrospectively from 17.08.1989 along with consequential monetary benefits.

<https://hcservices.ecourts.gov.in/hcservices/>
2. The learned Counsel for the writ petitioner states that the writ petitioner was engaged as daily wage Assistant Electrician, during the year 1985. The petitioner states that he is working for a



considerable length of time and performing the duties attached to the post of Assistant Electrician. Though the petitioner is fully qualified for the post of Electrician, his case was not considered, despite the fact that the third respondent recommended the case of the writ petitioner for appointment to the post of Electrician.

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3. Learned Additional Government Pleader appearing on behalf of the respondents made a submission that the post of Electrician in the particular temple has not been sanctioned and in other words, there is no sanctioned post of Electrician available in the establishment. The writ petitioner was engaged as daily wage employee by the temple authorities and he was considered as temple employee for all purposes and further his nature of employment is on daily wage basis and he cannot seek permanent absorption in violation of the recruitment rules in force. In the event of taking a decision to fill up the regular post, the writ petitioner can participate in the process of selection and not otherwise.

4. This being the principles to be followed, the writ petitioner who is continuing as daily wage employee in the post of Assistant Electrician cannot seek permanent appointment in the sanctioned post. However, the respondents also shall not encourage continuance of daily wage employees for a very long period. When there is a regular post, the respondents must take an attempt to fill up the posts. Allowing an employee to continue as daily wage employee for year together is also a wrong practice. This being the principle to be followed, the relief as such sought for in this Writ Petition cannot be granted.

5. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Commissioner,
Hindu Religious & Charitable Endowment Department,
(HR & CE Department),
Nungambakkan High Road,
Chennai - 34.

2. The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
(HR & CE Department),
Rulavaniapuram, Palayamkottai,
Tirunelveli - 2.



3.The Assistant Commissioner cum Executive Officer,
Arulmighu Thirmalai Kumarasamy Temple,
Panpoli, Senkottai Taluk,
Tirunelveli District.

+1 CC to M/s.N.SHANKAR GANESH, Advocate (SR-75926[F] dated
18/07/2019)

+1 CC to M/s.SPL GP (SR-75996[F] dated 18/07/2019)

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17.07.2019

MR
KK/SAR/30.07.2019/3P-6C

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