BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.2644 of 2016

S.Ramalingam (Melam) ... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments
Department, Chennai -34.

2.The Executive Officer,
Ramalingaswamy Thirukkoil,
Panagudi, Tirunelveli District. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the respondents to grant the petitioner's wages and disburse the petitioner's wages as mentioned in G.O.Ms.No.257 Tamil Development, Culture and Religious Endowment Department, dated 10.06.1998.

For Petitioner : Mr.C.Muthuthiagarajan
For R1 & R2 : Mr.V.R.Shanmuganathan, SGP

ORDER

Seeking a direction to the respondents to pay salary in terms of G.O.Ms.No.257, Tamil Development, Culture and Religious Endowment Department, dated 10.06.1998 (for brevity, "G.O.No.257 dated 10.06.1998"), the petitioner has preferred this writ petition.

2.According to the petitioner, he joined as Melakkarar (Melam) in Arulmigu Ramalingaswamy Thirukkoil, Panagudi, Tirunelveli District on 01.02.1985 as per the resolution passed by the trustees of the said temple, which was duly approved by the Executive Officer on 03.02.1985. Initially, he was paid Rs.60/- per month along with 6 marakkals of Paddy towards salary and it was increased only to Rs.135/- per month with effect from 01.01.2004. Thereafter, his service was regularised with effect from 18.02.2015. It is the grievance of the petitioner that he is eking out his livelihood with the said meagre salary. Though the Government, as per the recommendation dated 28.11.1997, of the Four Member Committee, passed an order in G.O.No.257 dated 10.06.1998, wherein, it was stated that the pay scale of the employees working in the temples, which get more than Rs.5 lakhs as income, was fixed as Rs.1350-30-1440-40-1800-50-2200, the same has not been implemented in the case of the petitioner. Since the second respondent temple, in which, the petitioner is working, is receiving an income of Rs.9,05,792/- as on 07.05.2012, the petitioner, vide separate representations, requested the respondents to refix his pay. However, neither of the representations bore fruition. Hence, the petitioner has come up with this writ petition for the aforesaid relief.

3.Upon notice, the second respondent filed a detailed counter affidavit, *inter alia*, stating that Arulmigu Ramalingaswamy Thirukoil, Panagudi, Tirunelveli District, is one of the ancient temples in Tamil Nadu and it is a listed public temple as notified under Section 46(1) of the Tamil Nadu Hindu Religious and Charitable Endowment Act (for brevity, "the HR&CE Act") and is being administered by the Executive Officer appointed by the Government of Tamil Nadu, subject to overall control of the first respondent herein; the petitioner has been working as Melakarar in the said temple since 01.01.2004 on consolidated pay basis; pursuant to the announcement of the Chief Minister and on the recommendation of the second respondent, the service of the petitioner was regularised with effect from 18.02.2015 and his salary was fixed in the time scale of pay of Rs.700-3000+G.P.400, considering the fact that the income of the temple in Fasli 1423 was Rs.2,66,781/- and the salary expenditure was 29.29% on temple income.

3.1 According to the second respondent, the salary of the temple employees has to be fixed, taking into consideration the total income of the temple and other expenses like Pooja, temple festival, annadanam, electricity charges, taxes, maintenance and other expenses; the income of the temple, in which, the petitioner is working, in Fasli 1423 and at present, is only below Rs.5 lakhs; and as the petitioner was regularised on special category, he cannot claim salary on par with other employees, as a matter of right. Hence, the writ petition has to be dismissed.

4.The learned counsel for the petitioner submitted that the petitioner was legally and duly appointed by the trustees as per Section 55 of the HR&CE Act and his initial salary was only Rs.60/- per month along with six marakkals of paddy in kind; later on, it was converted into cash and the petitioner has been paid Rs.135/- in every month upto this day; as per G.O.No.257 dated 10.06.1998, since the income of Arulmigu Ramalingaswamy Thirukoil exceeds Rs.5 lakhs, the salary for Melam set is to be fixed at Rs.2000-60-2400-76-3300; even if the temple's income is lower than Rs.5 lakhs and more than Rs.1 lakh, the salary for Melam set is to be fixed at Rs.1640-60-2600-75-2900. Therefore, the learned counsel sought to revise the salary of the petitioner as per G.O.No.257 dated 10.06.1998.

5.As directed by this Court, the first respondent filed a report, wherein, it is stated that as per the announcement made by the Chief Minister of Tamil Nadu in the Legislative Assembly under Rule 110 with regard to regularisation of all the daily wage/consolidated pay employees, who are working more than 5 years as on 31.07.2014 in the temples under the control of the HR&CE Department, the Government passed orders in G.O.Ms.No.62 TC&RE(RE4-1) Department dated 18.02.2015 and G.O.Ms.No.128, TC&RE(RE4-1) Department, dated 15.05.2015. Accordingly, the service of the petitioner was regularised by invoking the power of the Commissioner under Rule 17 of Section 116(2)(xxiii) of the Act. It is further stated therein that though the petitioner reached the age of 40 and he did not possess the required educational qualification, he was regularised as a special case and hence, he cannot make his claim retrospectively by virtue of G.O.No.257 dated 10.06.1998 and he is entitled to time scale of pay only with effect from the date of passing of G.O.Ms.No.62 i.e., on 18.02.2015.

6.Reiterating the averments so made in the counter affidavit and the report, the learned Special Government Pleader appearing for the respondents 1 and 2 submitted that the petitioner has no right to claim his salary by virtue of G.O.No.257 dated 10.06.1998 and he is eligible to receive salary only as per G.O.Ms.No.62 dated 18.02.2015; accordingly, his arrears of pay was calculated to the tune of Rs.1,47,383/- and paid to him, but, he refused to receive the same.

7.Heard both sides and perused the records.

8.Concededly, the petitioner is working as Melakkarar (Melam) in Arulmigu Ramalingaswamy Thirukoil, Panagudi, Tirunelveli District, which comes under the control of the HR&CE Department. As per G.O.No.257 dated 10.06.1998, the salary of the temple employees was fixed based on the income of the temples, in which, they are working.

9.It is the grievance of the petitioner that though he has been working as Melakkarar in the said temple right from the year 1985, his service was regularised only on 18.02.2015 i.e., after a lapse of three decades. Even thereafter, his salary was not fixed in accordance with G.O.No.257 dated 10.06.1998. Hence, this writ petition.

10.At this juncture, it is to be noted that this Court has already considered the issue relating to salary of the musical artistes of the temples (Tavil, Nathaswaram, Sruthi, Taalam, Miruthangam) and passed a detailed order on 18.10.2019 in WP(MD) No.24176 of 2018. For useful reference, the relevant portion of the said order is extracted below:

> "*10.Though even before several centuries, the significance of musicians in temple was prominent, it is, now, painful to note that a musician of a temple of our*

State is being made to run from pillar to post for his salary, allowances and other benefits for some reasons or other. Despite the Government passed several orders fixing/revising the scale of pay of the Othuvars and musicians in the temples of various categories, they could not see the colour of the coin till date. The end result has been tragic - lack of support for those musicians, who once breathed musical life into the temple and society.

11.Needless to say, a deep analysis over the services of the temple musicians and Othuvars would reveal their unimaginable knowledge in music and literature and they are performing / reciting / enchanting Thevaram, Thirumanthiram, Thiruvasagam, Divyaprabandam, etc. to echo on the four walls of the temples, which would definitely energise the human minds to get rid of all agonies of their lives. Thus, regard being had to the aforesaid admitted facts and also taking note of the role and importance of the musical artistes in the temples and their pitiable conditions, this Court deems it fit and appropriate to give necessary directions to the first respondent.

12.Accordingly, this writ petition stands disposed of, with a direction to the first respondent to take necessary action, on the proposals sent by the second respondent, vide proceedings in Na.Ka.No.2539/2004/Aa1 dated 07.02.2016 and 28.03.2017 and pass appropriate orders. The arrears of pay including VI and VII Pay Commission arrears, shall be released to the petitioner and other musical artistes. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. No costs."

11.In view of the aforesaid order and having regard to the facts and circumstances of the case, this Court directs the respondents to consider the claim of the petitioner, in line with the aforesaid order dated 18.10.2019 passed in WP(MD) No.24176 of 2018 and fix his salary, if he is otherwise eligible and disburse the same along with arrears, within a period of four weeks from the date of receipt of a copy of this order. Accordingly, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar()

// True Copy //

Sub Assistant Registrar(CS)

Rk

To
1.THE COMMISSIONER,
HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS DEPARTMENT,
CHENNAI -34.

2.THE EXECUTIVE OFFICER, RAMALINGASWAMY THIRUKKOIL,
PANAGUDI, TIRUNELVELI DISTRICT.

3. THE SPECIAL GOVERNMENT PLEADER,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1CC TO MR.C.MUTHUTHIYAGARAJAN, Advocate Sr. No. 99650

W.P(MD)No.2644 of 2016
20.11.2019

VR(CO)
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