



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P.(MD)No.2337 of 2021 and

W.M.P.(MD)No.1937 of 2021

V.Manikandan

... Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Trichy District.

2. The Executive Officer,
Arulmigu Kasi Viswanatha Thirukovil,
Thathiengarpeta, Musiri Taluk,
Trichy District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to permit the petitioner to do his service as Poojari in Arulmigu Kasi Viswanatha Thirukovil, Thathiengarpeta, Musiri Taluk, Trichy District and pay all his salary with arrears and other service benefits.

For Petitioner	: Mr.H.Arumugam
For R-1	: Mr.K.P.Narayanakumar, Special Government Pleader.
For R-2	: Mr.P.Athimoola Pandian

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the first respondent and the learned Standing counsel appearing for the second respondent.

2. With the consent of the learned counsel on either side, this writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner herein was appointed as Poojari for the petition mentioned temple on 01.04.1999. He was paid a consolidated pay of Rs.360/- per month. The petitioner alleges that he is not being allowed to discharge his duties as Poojari. Therefore, this writ petition came to be filed.

4. When the matter was taken up for hearing, the learned Standing counsel appearing for the second respondent brought to the Court's notice that serious allegations were made against the petitioner herein by the villagers and based on the written



complaint, an enquiry was conducted by the first respondent. He would also point out that the petitioner was only working on daily wages basis and that therefore, he was summarily sent out. He would also contend that in the place of the petitioner, a new Poojari has been appointed and he is now rendering service.

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5. The learned Standing counsel made available the copies of the proceedings dated 10.11.2020 issued by the first respondent in this regard.

6. I carefully considered the rival contentions and went through the materials on record.

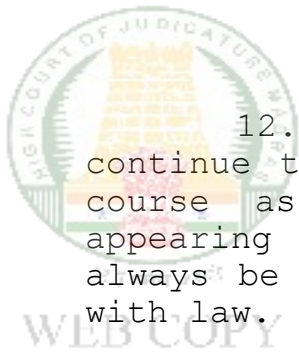
7. There is no dispute that the petitioner was working as Poojari of the petition mentioned temple. Of course being a paid servant of the institution he is amenable to the disciplinary jurisdiction of the Board/fit person. I posed a specific question as to whether the petitioner was suspended from service and I wanted to know whether charge memo was issued against the petitioner. The answer is in the negative. No formal article of charge was framed against the petitioner.

8. It is true that the proceedings dated 10.11.2020 would indicate that an enquiry was conducted by the first respondent. It is also seen that the executive officer had passed resolution for removing the petitioner from service. Unfortunately, such proceedings that are initiated against the petitioner were not preceded by any show cause notice. No enquiry was held. No charge memo was issued. In these circumstances, the petitioner cannot really defend himself.

9. I do not find much of merit in the contention that the petitioner was afterall a daily wager. This argument will not hold good, because the petitioner had been discharging his duty as Poojari right from 1999. A person who has been put in service for over 21 years cannot be summarily thrown out. That apart the respondents are casting stigma on the petitioner.

10. There is no merit in the contention that the order of dismissal is not under challenge. When the petitioner was not dismissed from service in the manner known to law, the petitioner can only file a Writ of Mandamus.

11. Though it is stated that a new person had been appointed in the place of the petitioner, it is for the respondents to take care of the newly appointed person. When the specific finding is that the termination of service is illegal, the petitioner is definitely entitled to the relief sought for.



12. The respondents are directed to permit the petitioner to continue to serve as Poojari of the petition mentioned temple. Of course as rightly contended by the learned Standing counsel appearing for the second respondent, the second respondent will always be at liberty to initiate appropriate action in accordance with law.

13. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pmu

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Trichy District.
2. The Executive Officer,
Arulmigu Kasi Viswanatha Thirukovil,
Thathiengarpet, Musiri Taluk,
Trichy District.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-4589[F] dated 11/02/2021)

+1 CC to M/s.SPL GP (SR-4926[F] dated 15/02/2021)

W.P. (MD) No.2337 of 2021
10.02.2021

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KB(15.02.2021) 3P 5C