



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.7871 of 2021

and

W.M.P (MD)No.6012 of 2021

WEB COPY

T.D.Naveenkumar

... Petitioner

vs.

1.The Chairman,
Board of Trustees,
Arulmighu Dhandayuthapani Swamy Thirukovil,
Palani.

2.The Executive Officer,
Arulmighu Dhandayuthapani Swamy Thirukovil,
Palani.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings of the first respondent in Se.Mu.Na.Ka.No.527/2021/A1, dated 02.04.2021 and quash the same.

For Petitioner : Mr.J.Anandkumar
For Respondents : Mr.VR.Shanmuganathan
Special Government Pleader

ORDER

This Writ Petition is filed seeking for a Writ of Certiorari, calling for the records relating to the impugned proceedings of the first respondent in Se.Mu.Na.Ka.No.527/2021/A1, dated 02.04.2021 and quash the same.

2.Mr.VR.Shanmuganathan, learned Special Government Pleader accepts notice on behalf of the respondents.

3.By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

4.According to the petitioner, he was appointed as an Office Assistant on consolidated basis, based on the resolution passed by the Trust Board of the respondent-Temple and he was assigned to work at Winch Station in the respondent-Temple. On the complaint received from one Dhanapal, charges were framed against the petitioner and he was removed from service, by proceedings, dated 02.04.2021. Challenging the same, the petitioner has come out with the present Writ Petition.

5.The learned counsel appearing for the petitioner submitted that in the impugned proceedings charges were framed and without



conducting any enquiry, in the said proceedings itself, the petitioner was removed from service and hence, the order of dismissal is arbitrary and is in violation of principles of natural justice and prayed for setting aside the impugned order.

6. Mr. VR. Shanmuganathan, learned Special Government Pleader appearing for the respondents submitted that a complaint was received from one Dhanapal stating that while he was going along with five others with four bags of rice in the Winch, the petitioner collected a sum of Rs.600/- as charge, but issued receipt only for a sum of Rs.120/- and caused loss to the Temple. The charges of grave nature are framed against the petitioner and he was served with the impugned order containing charges. The petitioner was removed from service as per the powers conferred on Trustees under Section 56(1) of the Hindu Religious and Charitable Endowments Act, 1959 and the order of dismissal is valid and legal. The learned Special Government Pleader further submitted that the petitioner was appointed only on consolidated pay on temporary basis and hence, the procedure need not be followed for removing him from service. If for any reason, if this Court sets aside the impugned order, the respondents may be given liberty to transfer the petitioner to some other post as if he continued in the same post, he will continue to indulge in same misconduct and prayed for dismissal of the Writ Petition.

7. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

8. From the impugned order, it is seen that the petitioner was issued with a charge memo and by the same proceedings, dated 02.04.2021, the petitioner was removed from service, as per Section 56(1) of the Hindu Religious and Charitable Endowments Act, 1959. Section 56(1) of the Act reads as follows:-

"56. Punishment of office-holders and servants in religious institutions.- (1) All office-holders and servants attached to a religious institution or in receipt of any emolument or perquisite therefrom shall controlled by the trustee and the trustee may, after following the procedure prescribed, if any, fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or other sufficient cause."

9. The Rules framed under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 for the punishment of Office-Holders and Servants of Religious Institutions (other than Maths and Specific Endowments Attached thereto) are as follows:-

"2. (a) No order imposing any punishment other than a



fine under sub-section (1) of section 56 (other than an order based on facts which have led to his conviction by a Criminal Court) shall be made against any office-holder or servant unless he has been informed, in writing, of the grounds on which it is proposed to take action and has been afforded an adequate opportunity of defending himself. The grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges which shall be communicated to the person charged, together with statement of the allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders in the case. He shall be required, within a reasonable time, to put in a written statement of his defence and to state whether he desires an oral enquiry or only to be heard in person. An oral enquiry shall be held if such an enquiry is desired by the person charged or is decided upon by the trustee. At that enquiry, oral evidence shall be heard as to such of the allegations as are not admitted, and the person concerned shall be entitled to cross-examine witnesses, to give evidence in person and to have such witnesses called as he may wish, provided that the trustee may, for special and sufficient reason to be recorded in writing, refuse to call witness or require the delinquent to bear the expenses of such witnesses. After the enquiry has been completed, the person charged shall be entitled to put in, if he so desires, any further written statement of his defence. If no oral enquiry is held and if he had desired to be heard in person, a personal hearing shall be given to him. The proceedings shall contain a sufficient record of the evidence and a statement of the findings and the grounds thereof. Every order of suspension, removal or dismissal shall state the charges, the explanation and the finding on each charge with the reasons therefor.

(b) In every case, where it is proposed to impose fine on the office-holder or servant, he shall be given a reasonable opportunity of showing cause against the action proposed to be taken against him.

3. The requirements of rule 2 shall not apply where the person concerned has absconded, or where it is for other reasons impracticable to communicate with him. All or any of the provisions of rule 2 may, in exceptional cases for special and sufficient reasons to be recorded in writing, be waived by the trustee, where there is difficulty in observing exactly the requirements of the



rule and those requirements can be waived without injustice to the person charged.

4. Pending the disposal of the grave charges against the office-holder or servant, the trustee may place him under suspension when such suspension is necessary in the interest of public service.

5. Every order of punishment under sub-section (1) of section 56 shall be communicated in writing to the person against whom it is passed."

As per the above said Act and Rules, all the office-holders and servants attached to a religious institution can be removed by the Trustees, after following the prescribed procedure.

10. In the present case, without giving any opportunity to the petitioner to put forth his case in the very same charge memo itself, the petitioner was removed from service.

11. In view of the same, the impugned order is set aside and liberty is granted to the respondents to initiate enquiry proceedings afresh as contemplated under the Act and Rules. It is open to the respondents to transfer the petitioner to some other place and post, if the facts and circumstances so require. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-17113[F] dated 22/04/2021)

W.P (MD) No.7871 of 2021
20.04.2021

ES (CO)

KB(12.05.2021) 4P 2C

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