



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)Nos.11182, 11184, 11185, 11187, 11188, 11189, 11191, 11192, 11193, 11194, 11195, 11196, 11197, 11198, 11199, 11200, 11201, 11202, 11203, 11204, 11205, 11206, 11207, 11208, 11209, 11210, 11211, 11212, 11213, 11214, 11226, 11227, 11228 and 11230 of 2021

Sudharson S/o. Kathirvel, Venkangudi, Trichy District.
... Petitioner in WP(MD). 11182/ 2021

Veldurai S/o. Arumugasamy, Adaikalamkatha Madha Kovil Street,
Vathalai, Gudalore, Lalgudi, Trichy District.
... Petitioner in WP(MD). 11184/ 2021

Mathukumar S/o. Baskar, No/3/37a, Mela Street, Sengudi,
Alagaiyamanavalam, Manchanallur, Trichy District.
... Petitioner in WP(MD). 11185/ 2021

Subramanian S/o. Veeran, No.1/202, South Street Arunthathi,
Omanthur, Manachanallur, Trichy District.
... Petitioner in WP(MD). 11187/ 2021

Renganathan S/o. Marimuthu, Gunaseelam Village, Musiri,
Trichy District.
... Petitioner in WP(MD). 11188/ 2021

Udhayakumar S/o. Muniyandi, No. 290 Main Road, Ankarai, Lalgudi,
Trichy District.
... Petitioner in WP(MD). 11189/ 2021

Jembukrishnan.T.S S/o. Subramania Sharma, Bazzar Street,
Samayapuram, Manachanallur, Trichy District.
... Petitioner in WP(MD). 11191/ 2021

Rajappa S/o. Venkatraman, No. 290, Main Road, Ankarai, Lalgudi,
Trichy District.
... Petitioner in WP(MD). 11192/ 2021

Selvaraj.N S/o. R.Natarajan, South Makilampadi, Purathagudi,
Trichy District.
... Petitioner in WP(MD). 11193/ 2021

Natarajan S/o. Kannan, Karunya Nagar, Koothur Post,
Trichy District.
... Petitioner in WP(MD). 11194/ 2021



Narayanan.T.S S/o. Subramaniasarma, Bazzar Street, Samayapuram,
Manachanallur, Trichy District.

... Petitioner in WP(MD). 11195/ 2021

Kumar S/o. Mottaiyan, Silayaathi, Kliyanallur Post,
Manachanallur Taluk, Trichy District.

... Petitioner in WP(MD). 11196/ 2021

Kalaiselvan S/o. Govindharaj, No.1, Indhira Nagar, Manachanallur,
Trichy District.

... Petitioner in WP(MD). 11197/ 2021

Prakash S/o.M.Sakthivel, Ambalakara Street, Samayapuram,
Trichy District

... Petitioner in WP(MD). 11198/ 2021

Ashok Kumar, S/o. Seenivasan, 36/54, Teachers Colony,
Samayapuram, Trichy District.

... Petitioner in WP(MD). 11199/ 2021

Veeramani S/o. Vembadiyan, Makalaikudi, Samayapuram,
Trichy District.

... Petitioner in WP(MD). 11200/ 2021

Rasukannu S/o. Rethinam, No.3/197, Nadu Street, Maruthoor,
Samayapuram, Trichy District.

... Petitioner in WP(MD). 11201/ 2021

Ganesan S/o. Balathandayuthapani, Kudi Street, Pallividai, Eengur,
Trichy District.

... Petitioner in WP(MD). 11203/ 2021

Gunalan S/o.Pechimuthu, Pudhuchathiram Post, Thirukattupalli,
Thanjavur District

... Petitioner in WP(MD). 11204/ 2021

Jeyaraman S/o. Ravi, South Street, V.Thuraiyur, Pallividai Post,
Samayapuram, Trichy District.

... Petitioner in WP(MD). 11205/ 2021

Prabakaran S/o.Palaraman, V.Thuraiyur, Samayapuram, Trichy District

... Petitioner in WP(MD). 11206/ 2021

Kaliyamoorthi S/o.Jayaraman, Panamankulam, Koothur Post,
Trichy District

... Petitioner in WP(MD). 11207/ 2021

Periyanan S/o. Seenivasan, Mela Ponnampalayam, Manachanallur,
Trichy District.

... Petitioner in WP(MD). 11208/ 2021



Chandrasekaran S/o. Muthukumar, Seenivasa Nagar, Vayaloor Road,
Trichy District

... Petitioner in WP(MD). 11209/ 2021

Sureshkumar S/o. Palanivel, L.Maruthoor, Samayapuram,
Trichy District.

... Petitioner in WP(MD). 11210/ 2021

Muthumalai S/o. Arumugam, Ambalakara Street, Samayapuram,
Trichy District.

... Petitioner in WP(MD). 11211/ 2021

Ganesan S/o. Palaniyandi, 26, Narasingamangalam, Kannanoor Post,
Samayapuram, Trichy District.

... Petitioner in WP(MD). 11212/ 2021

Ravichandran S/o. Periyasamy, Puthuchathiram Post,
Thirukattupalli, Thanjavur District.

... Petitioner in WP(MD). 11213/ 2021

Ananthakumar, S/o. Ponnusamy, No.5/30, Velallar Street,
Murungapettai, Mutharasanallur, Trichy District.

... Petitioner in WP(MD). 11214/ 2021

Aravinth S/o.Jeyaraman, 19, Sannathi St, Samayapuram, Trichy Dist

... Petitioner in WP(MD). 11226/ 2021

Ramachandran.K S/o.Kanakaraj, Park St, Samayapuram, Trichy Dist

... Petitioner in WP(MD). 11227/ 2021

Manikandan S/o.Manikam, C Maruthoor, Samayapuram, Trichy Dist

... Petitioner in WP(MD). 11228/ 2021

Babu S/o. Paramasivam, Sinkaravel Nagar, Samayapuram, Trichy Dist

... Petitioner in WP(MD). 11230/ 2021

- Vs. -

1. The Commissioner Hindu Religious and Charitable Endowment
Department, Chennai- 600 034.

2. The Joint Commissioner Arulmigu Mariamman Temple, Samayapuram,
Trichy District.

... Respondents in all Writ Petitions

Common Prayer :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court S-6. to issue a Writ of Mandamus directing the respondents to regularize the petitioner services with effect from date of joining of the petitioner with the second respondent Temple with back wages, attendant benefits and continuity of



service or other orders as deemed fit and proper to this case and thus render justice.

For Petitioner : Mr.K.K.Samy
For Respondents : Mr.P.Subbaraj
Government Advocate

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COMMON ORDER

Since the issues involved in these Writ Petitions are one and the same and therefore, these Writ Petitions are heard together and disposed of by way of this common order.

2. According to the petitioners, on seeing the notice board displayed in the second respondent Temple, the petitioners applied for the posts of Thiruchutru, Watchman, Ticket Vendor, Archagar. The Board of Trustees of the second respondent conducted an interview and in the meeting held on 31.01.2011 passed a resolution selecting the petitioners to the above mentioned posts. By the letter, dated 14.02.2011, the second respondent sent the proposal to the first respondent for approval of the appointment of the petitioners. The first respondent approved the appointment of the petitioners. Following the same, the second respondent issued appointment orders to all the petitioners on 25.02.2011. The petitioners joined as Thiruchutru, Watchman, Ticket Vendor, Archagar in the second respondent Temple on 27.02.2011. While so, the Manager of the second respondent did not allow the petitioners to sign the Attendance Register. The petitioners sent representations and filed writ petitions in W.P(MD)Nos.7744 to 7748 of 2011 and W.P (MD)No.9490 of 2011. This Court, by common order, dated 27.06.2012 dismissed the writ petitions. Aggrieved against the said order of dismissal, some of the petitioners filed writ appeals in W.A(MD) Nos.759 to 764 of 2012 and W.A(MD)Nos.94 and 95 of 2014. A Division Bench of this Court, by the judgment, dated 26.04.2017 dismissed the writ appeals in W.A(MD)Nos.94 & 95 of 2014 and the another Division Bench of this Court, by the judgment, dated 10.02.2021, dismissed the writ appeals in W.A(MD)Nos.759 to 764 of 2012. The petitioners have come out with the present writ petitions for a direction to the respondents to regularise their service with effect from the date of joining on the second respondent temple with back wages, attendant benefits and continuity of service.

3. The learned counsel appearing for the petitioners contended that there cannot be any oral termination. The petitioners cannot suffer for the mistake committed by the Officials. The oral termination is opposed to public policy. The learned counsel appearing for the petitioners further submitted that as per the judgment of the Hon'ble Apex Court in **National Buildings Construction Corporation vs. S.Raghunathan and others** reported in **1998(7) SCC 66: (1999) 1 M.L.J 27 (SC)**, the Doctrine of Legitimate Expectations can be invoked, as petitioners were selected and



appointed by following due process of selection. According to the learned counsel appearing for the petitioners, the petitioners are not terminated and they are continuing to discharge their duties in the posts to which, they are appointed even today, and prayed for allowing the writ petitions.

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4. Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents and perused the materials available on record.

5. From the materials on record, it is seen that it is a case of the petitioners that they were appointed in the posts of Thiruchutru, Watchman, Ticket Vendor, Archagar in the second respondent Temple by the Board of Trustees after following due process of selection. Their appointments were approved by the first respondent. They joined duty, but the Managing Director of the second respondent Temple did not allow them to sign the attendance register. The petitioners filed writ petitions in W.P(MD)Nos.7744 to 7748 of 2011 and W.P(MD)No.9490 of 2011 for mandamus to direct the second respondent to permit the petitioners to sign the attendance register. This Court, by order, dated 27.06.2012, considering the contention of the learned counsel appearing for the petitioners as well as the stand taken by the second respondent, dismissed the writ petitions holding that unless the order of termination is declared as illegal, the petitioners are not entitled to the relief sought for in the said writ petitions. Challenging the said order of dismissal, some of the petitioners filed writ appeals in W.A(MD)Nos.759 to 764 of 2012 and W.A(MD)Nos.94 and 95 of 2014. A Division Bench of this Court, by the judgment, dated 26.04.2017 dismissed the writ appeals in W.A(MD)Nos.94 & 95 of 2014, by passing the following order:-

"2. These Writ Appeals are directed against the order, dated 27.06.2012 made in W.P(MD)Nos.7744 & 7747 of 2011.

3.The appellants filed the Writ Petitions seeking a direction tot he second respondent to permit them to sign the Attendance Register.

4. The above said Writ Petitions were dismissed on the ground that unless the termination is declared as illegal, a direction cannot be given for restoration of the appellants in service. Furthermore, the respondents 1 and 2 took a specific stand that without calling for applications from the Employment Exchange and without any advertisement and without conducting interview, the appellants claimed to have been appointed and such appointment is wholly illegal. Thus, we are in entire agreement with the view expressed by the learned Single Judge, in W.P(MD) Nos.7744 to 7748 and 9490 of 2011. Accordingly, the impugned order does not call for any interference by



us. Hence, there Writ Appeals are dismissed. No costs."

Another Division Bench of this Court, by the judgment, dated 10.02.2021, following the judgment of this Court, dismissed the writ appeals in W.A(MD)Nos.759 to 764 of 2012. From the common order, dated 27.06.2012 made in W.P(MD)No.7744 of 2011 as well as the judgments, dated 26.04.2017 and 10.02.2021 made in the writ appeals, it is seen that this Court has held that unless the order of termination is declared as illegal, the petitioners are not entitled to the relief sought for in the above proceedings. The petitioners have not taken any steps for declaration of their termination as illegal. On the other hand, in the present writ petitions, in one place they have stated that they are not terminated and continuing to discharge their duties till date. In another place, the petitioners have stated that oral termination is illegal and there cannot be any oral termination.

6. In the present writ petitions, the petitioners are seeking regularisation of their services, back wages and continuity of service from the date of their appointment. According to the petitioners, they were appointed on 27.02.2011. If the petitioners are permitted to discharge their duties without signing the attendance register and not paid with salary, they ought to have taken immediate steps for payment of salary by proving that they are continuing their duties till date. According to the petitioners, for more than 10 years, they worked without salary and now, they have filed the writ petitions for regularisation, back wages with continuity of service. In view of the order passed in the earlier writ petitions and writ appeals filed by the petitioners unless the order of termination is declared as illegal, the petitioners are not entitled to the relief sought for in the present writ petitions. Further, the petitioners are seeking to issue a writ of mandamus without making any representation to the respondents for the relief sought for in the writ petitions. A writ of Mandamus can be issued only when the respondents failed to discharge their duties in considering and passing orders on the representations given by the petitioners, when they are legally bound to do so.

7. For the above reasons, all the writ petitions fail and they are liable to be dismissed as devoid of merits. Accordingly, these writ petitions are dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

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/ /2021

Sub Assistant Registrar(CS)



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To

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai-600 034.

2.The Joint Commissioner,
Arulmighu Mariamman Temple,
Samayapuram,
Trichy District.

+2 CC to M/s.K.K.SAMY, Advocate (SR-21596[F] dated 08/07/2021)

+1 CC to M/s.SPL GP (SR-21708[F] dated 08/07/2021)

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11207, 11208, 11209, 11210,
11211, 11212, 11213, 11214,
11226, 11227, 11228 and 11230 of 2021
07.07.2021

KMK (CO)
KB(20.07.2021) 7P 6C