



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:15.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.13141 of 2016

and

W.M.P (MD) .No.9915 of 2016

K.Saravanakumar

... Petitioner

Vs.

The Executive Officer,
Arulmigu Naathagiri Balasubramaniaswami
Thirukovil,
Koodaloor,
Sivagiri Taluk,
Tirunelveli District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent in his proceedings dated 03.12.2015 and to quash the same and consequently, direct the respondent to reinstate the petitioner into service in the respondent office with all monetary benefits forthwith.

For Petitioner : Mrs.S.Ragaventhre
for Mr.R.Prabhu
For Respondent : Mr.Dr.C.Guhaseelarupan
Standing Counsel

O R D E R

This Writ Petition is filed by the petitioner, to call for the records relating to the impugned order passed by the respondent, in his proceedings, dated 03.12.2015, and to quash the same and consequently, direct the respondent to reinstate the petitioner into service in the respondent office with all monetary benefits forthwith.

2.The case of the petitioner is that, he was posted as Cook Assistant on 14.01.2006 in the Arulmigu Naathagiri Balasubramaniaswami Thirukovil, on temporary basis. Since the petitioner was involved in two criminal cases, he was placed under suspension. Challenging the said suspension, the present writ



petition is filed.

3.The learned counsel appearing for the petitioner would submit that the order of suspension is non est in the eye of law. Further, the suspension order was passed by the respondent, who is not the competent authority. Therefore, he prays that the suspension order is liable to be set aside.

4.Per contra, the learned Standing Counsel appearing for the respondent submitted that on an earlier occasion, the petitioner was involved in the criminal case in Crime No.271 of 2015 for the offence under Section 4(1)(A) of the Tamilnadu Prohibition Act and he was arrested. Based on the registration of criminal case against the petitioner, suspension order was passed and dismissed from service. Challenging the said order of dismissal, the petitioner has filed a writ petition before this Court in W.P(MD). No.20949 of 2014. While entertaining the said writ petition, this Court granted an order of stay. Pursuant to the order of stay, the petitioner was reinstated into service. While the petitioner was working in the said Temple, again he involved in two criminal cases and one is for selling liquor bottles without any authority and the another one case in Crime No.24 of 2015 for the offence under Sections 294(b), 323 and 506(ii) IPC. Based on the involvement of the said criminal cases, again the petitioner was placed under suspension. The writ petition, which was challenged the termination of services of the petitioner from the Temple, was also dismissed and the order of suspension was confirmed by this Court, on 14.12.2020, the relevant portion of the said order is extracted hereunder:

" 4. This Court is of the considered opinion that the petitioner was engaged as temporary daily wage cook assistant and a criminal case was registered with an allegation of selling of liquor bottles. This being the factum, the petitioner has no right to seek any reinstatement, as he was engaged as a daily wage cook assistant to assist the employees of the Temple. Thus, the petitioner has no right to claim any appointment, as his initial appointment was not made in accordance with the Rules and further, he was engaged on temporary basis as daily wages employee.

5. In this view of the matter, the petitioner is not entitled for the relief of reinstatement as such prayed for. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed."



5. In view of the dismissal of the said Writ Petition in W.P (MD).No.20949 of 2014, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To
The Executive Officer,
Arulmigu Naathagiri Balasubramaniaswami Thirukovil,
Koodaloor,
Sivagiri Taluk,
Tirunelveli District.

+1 CC to M/s.DR.C.GUHASEELARUPAN, Advocate (SR-5471[F] dated 16/02/2021)

+1 CC to M/s.K.PRABHU, Advocate (SR-5473[F] dated 16/02/2021)

M. DHA
W.P. (MD)No.13141 of 2016
15.02.2021

na (CO)
TR(01.03.2021) 3P 4C