



W.P.No.14483 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14483 of 2017
and
W.M.P.No.15715 of 2017

K.Shankar

... Petitioner

-Vs-

1. Govt. of Tamil Nadu,
Rep. by Secretary to Government,
Tamil Development,
Religious Endowments and Information Department,
Secretariat, Chennai 600 009.
2. The Commissioner,
Hindu Religious & Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai 600 006.
3. The Chairman,
Trust Board of Arulmighu Naganathaswamy Temple,
Thirunageswaram, Thanjavur District.
4. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Mayiladuthurai, Nagapattinam District.
5. The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Kumbakonnam Taluk, Thanjavur District.



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6. The Assistant Commissioner/Executive Officer,
Trust Board of Arulmighu Naganathaswamy Temple,
Thirunageswaram, Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Declaration, declaring that the rejection of the oral termination order passed by the 6th respondent, as illegal, and to issue consequential direction to the respondents 1, 2 and 4 to reinstate of the Petitioner into service from 01.02.2007 the date of his oral termination with all consequential monetary benefits and continuity of service.

For Petitioners : M/s.Grace Juliet Praveena
for Mr.K.Arunagiri

For Respondents : Mr.K.Karthikeyan
Government Advocate

ORDER

The writ petition had been filed to declare the oral termination passed by the 6th respondent as illegal and for consequential reinstatement.

2. The petitioner states that he was appointed as a Watchman on a daily wage basis (NMR) in the office of the Trust Board of Arulmighu Naganathaswamy Temple, Thirunageswaram on 01.07.2002. The



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petitioner states that a resolution was passed by the third respondent Chairman of the Trust Board to confirm the appointment of the writ petitioner. However, the respondents appointed the petitioner on a temporary basis on 26.12.2004, after terminating the services of the one Mr.Rasu Pillai.

3. The petitioner states that he was orally terminated from service despite the fact that he had completed 480 days of service in 24 calendar months. Thus, the petitioner is eligible for conferment of permanent status under the statute. The petitioner raised an industrial dispute under Section 2(A)(2) of the Industrial Disputes Act, 1947, and the said ID was dismissed by the Labour Court.

4. The learned counsel for the respondents made a submission that the petitioner was not appointed in accordance with the rules in force. He was engaged as a daily wage employee (NMR) temporary basis and he had not reported for duty from 30.06.2006 onwards. In this regard, the learned counsel for the respondents relied on the contentions in paragraph 6 and 7 of the counter affidavit which reads as under :



6. It is learnt that the Trust Board of the 3rd Respondent- temple had passed a resolution recommending the Petitioner for service of Arulmigu Naganathaswamy Temple, Thirunageswaram on temporary basis, during December 2004. The then Executive Officer of the 6th Respondent temple had forwarded the resolution of the Board of Trustees of the temple to the Joint Commissioner, H.R&C.E Department, Mayiladuthurai for getting necessary sanction of the Commissioner/2nd Respondent. It is learnt that on humanitarian basis the then Executive Officer had appointed the Petitioner, as a temporary sub-staffs as a watchman on daily wage basis from January 2005, in anticipation of approval for creation of new temporary post and for payment of daily wages. It is learnt that the petitioner herein was allowed to work in the temple as daily wages temporary employee without any sanction order of the 2nd Respondent herein and appointment order by the Chairman, Board of Trustee of the temple as per Section 55 of the Act.

7. It is seen that there were various allegations against the petitioner of being pestering the devotees for bribe and similar hush monies under the pretext of providing favours in return to the visiting pilgrims. It is further learnt that the Petitioner himself stopped reporting to work abruptly from 30.03.2006. Therefore, there is no question of oral termination as alleged. Even assuming but without admitting that if at all the petitioner was really terminated



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from service orally, there is a ready of appeal as provided under section 56 of the Act before this 4th Respondent and without exhausting the available alternative efficacious remedy as provided under the Act, had already approached and also miserably failed to establish his claims before both the Labour Conciliation Officer as well as the Labour Court and now by filing this Writ Petition, the Petitioner is abusing the Court's valuable and due process of law which cannot be allowed.

5. The petitioner was not appointed in accordance with the rules and no order of appointment was issued to him. He was engaged as a daily wage employee and he had not reported for duty from 30.03.2006 onwards. Now 16 years lapsed. Though the petitioner states that he was orally terminated from the year 2006, he filed the present writ petition in the year 2017, after a lapse of 11 years from the alleged oral termination. However, the counter statements state that the petitioner remained unauthorisedly absent from 30.03.2006 and thereafter he had not reported for duty. The industrial dispute raised by the petitioner before the Labour Court was also dismissed. Even before this Court, the petitioner had not produced any order of appointment or any other document, enabling this Court to consider the relief. That apart, there



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was an enormous delay in filing the writ petition, and the industrial dispute raised by the petitioner was also dismissed.

6. Thus, there is no other reason to consider the relief as such sought and accordingly, the writ petition stands **dismissed**. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes
Speaking order
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To

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S.M.SUBRAMANIAM.J.,

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