



W.P.(MD)No.8637 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.8637 of 2020

A.Amaravathi

... Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Mahatmagandhi Road,
Nungampakkam,
Chennai-34.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Palayamkottai,
Tirunelveli.

3.The Executive Officer,
Arulmigu Palvannanthar Swamy Temple,
Pettai,
Tirunelveli District-627 004.

... Respondents



W.P.(MD)No.8637 of 2020

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the 3rd respondent dated 25.9.2019 and quash the same as illegal with the consequential direction to regularize petitioner's service from the date of her initial appointment i.e. 01 3 2001 with all scale pay allowance and increment benefits.

For Petitioner	:	Mr.D.Saravanan
For Respondents	:	Mr.R.Ragavendran Government Advocate for R1 and R2 Dr.C.Guhaseelarupan for R3

O R D E R

This Writ Petition has been filed to call for the records pertaining to the impugned order issued by the 3rd respondent, dated 25.9.2019 and quash the same as illegal with a consequential direction to regularize the petitioner's service from the date of her initial appointment, i.e., 01.03.2001 with all scale pay allowance and increment benefits.



W.P.(MD)No.8637 of 2020

WEB COPY

2. The case of the petitioner is that the petitioner was appointed as Night Watchman in the 3rd respondent Temple by the then Managing Trustee on 01.03.2011 and he was paid with consolidated pay of a sum of Rs.250/- per month. The said appointment was only a temporary appointment and the same was considered by the respondents 1 and 2 vide proceedings Na.Ka.No.85916/99-11, dated 01.10.2001. Thereafter, 30% was hiked in the salary of the petitioner by the said proceedings. Even though the petitioner was working for the past 20 years, his name was sponsored by the 3rd respondent to the 2nd respondent only in the year 2015. Even thereafter, his service was not regularised. Hence, he made a request for confirmation of his service. Till his retirement, his request for confirmation of his service was not considered. In the meanwhile, the petitioner got superannuated on 01.03.2021. However, the third respondent rejected the request of the petitioner by passing the impugned order that there is a huge loss in the payment of salary to the Temple employees and approximately, 40% of temple income is spent on salary expenses. Hence, he prays for allowing the writ petition.



W.P.(MD)No.8637 of 2020

WEB COPY

3. The learned counsel appearing for the petitioner would submit that the petitioner has obtained information with regard to the income of the Temple under the Right to Information Act, in which, it has been stated that a sum of Rs.27,79,920/- (Rupees Twenty Seven Lakhs Seventy Nine Thousand Nine Hundred and Twenty only) is the monthly income of the Temple per year and out of the said amount, 40% has to be paid by way of salary to the temple employees. However, the same was not extended to the petitioner. Hence, he prays for appropriate orders.

4. The learned counsel appearing for the third respondent would submit that the petitioner was appointed as Night Watchman in the 3rd respondent Temple on temporary basis and initially, his salary was fixed as Rs.250/- per month. Thereafter, as per the orders of the respondents 1 and 2, the salary of the petitioner was increased. However, the petitioner has misconstrued the impugned letter of the third respondent as though the Temple has to meet out another 40% of expenses for his new fixation. In fact, in G.O.(Ms).No.91, Tourism, Culture and Religious (RE4-1) Department, dated 28.06.2019, it has been clearly stated that as far as non-



W.P.(MD)No.8637 of 2020

senior grade Temples are concerned, scale of pay should be fixed to the employees, only after confirming that the salary of the staff members should not exceed 40% of the Assessable income of the Temple. Therefore, the respondents have not violated Articles 14, 19 and 21 of the Constitution of India. Hence, he prays for the dismissal of the present writ petition.

5. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 and 2 and the learned counsel appearing for the 3rd respondent.

6. The facts in the present case are not in dispute. Admittedly, the petitioner was appointed as Night Watchman in the 3rd respondent Temple on temporary basis and initially, his monthly income was Rs.250/-. Thereafter, as per the orders of the respondents 1 and 2, the salary of the petitioner was increased. At the time of retirement, he was receiving the salary of Rs.750/- per month. Whereas, Archagar of the Temple was receiving a sum of Rs.750/- per month and the miscellaneous workers were receiving a sum of Rs.500/- per month.



W.P.(MD)No.8637 of 2020

WEB COPY

7. The grievance of the petitioner is that G.O.(Ms).No.91, Tourism, Culture and Religious (RE4-1) Department, dated 28.06.2019 is not extended to him. Hence, this Court, in order to ascertain the above fact, perused the calculation sheet annexed in the typed set of papers filed by the third respondent, which would reveal that if the salary of the petitioner is hiked, the monthly income of the petitioner would be Rs.6,494/- per month. Therefore, the monthly income of Night Watchman would be Rs.77,928/- and the monthly income of Archagar would be Rs.9,000/- and the monthly income of miscellaneous workers would be Rs.6000/-. Totally, a sum of Rs.92,928/- would be coming and the Assessable income of the Temple is Rs.1,46,311/-. Hence, if the salary of the petitioner is hiked, the salary of Archagar and miscellaneous workers are also ought to be hiked, which would exceed more than 40% of Assessable income of the Temple. Therefore, the benefit of G.O.(Ms).No.91, Tourism, Culture and Religious (RE4-1) Department dated 28.06.2019 cannot be extended to the petitioner and the prayer sought for by the petitioner in the present writ petition cannot be granted. However, the respondents are directed to settle the terminal



W.P.(MD)No.8637 of 2020

benefits as applicable to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition is dismissed. No costs.

19.12.2022

Index : Yes / No

Speaking Order : Yes / No

ssb

To

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Mahatmagandhi Road,
Nungampakkam,
Chennai-34.

2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Palayamkottai,
Tirunelveli.

3. The Executive Officer,
Arulmigu Palvannanthar Swamy Temple,
Pettai,
Tirunelveli District-627 004.



WEB COPY



W.P.(MD)No.8637 of 2020

M.DHANDAPANI,J.

ssb

W.P.(MD)No. 8637 of 2020

19.12.2022