



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **02.02.2022**

CORAM :

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD) .No.15326 of 2015

and

M.P(MD).Nos.1 and 2 of 2015

S.Sankaramalavarayan

... Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
119, Uthamargandhi Salai,
Nukambakkam,
Chennai-600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Palayamkottai,
Tirunelveli District-627 002.

3.The Deputy Commissioner,
Arulmigu Sankaranarayanswamy Thirukovil,
Sankarankovil,
Tirunelveli District-627756.

4.R.Ponswaminathan
Deputy Commissioner,
Arulmigu Sankaranarayanswamy Thirukovil,
Sankarankovil,
Tirunelveli District-627756.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating the impugned proceedings of the third respondent No.308/2012/A3 dated 29.11.2013 and proceedings No.557/2014/A3 dated 30.06.2014 of the third respondent and quash the same as void abinitio and consequently direct the third respondent to settle retirement benefits encashment of earned leave, CPF, Spl. PF and other dues such as TA, pay for the special duty performed by the petitioner during festivals, Deepavali gift and the amount recovered from the salary of the petitioner for the month of November, 2013 and pension and DCRG with 20% interest per annum from the date of retirement to till the date of payment.



For Petitioner : Mr.C.Jeganathan
From S.Veera Associates
For R1 & R2 : M/s.D.Farjana Ghoushia
Special Government Pleader
For R3 & R4 : Mr.Sivatharsana
For Mr.M.P.Senthil

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O R D E R

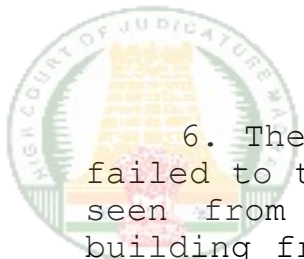
The petitioner was appointed as clerk in the time scale of pay on 26.06.1997 and was awarded selection grade on 06.07.1996, then promoted as Assistant and attained superannuation on 30.06.2014. The respondents without permitting the petitioner to retire, relived the petitioner from service without prejudiced to the pending audit objection relating to Fasli year 1413.

2. The brief facts of the case are that the building of the respondents was rented to Kadhi and Village Industries Board, but the Board failed to remit the fair rent from 01.10.1997 onwards. The respondents filed a suit in O.S.No.94 of 2002 on the file of Sub Court, Sankarankovil for eviction of the Kadhi Board, the Board also vacated the building and handed over the key on 14.04.2004. As on date of eviction i.e. 14.04.2004, there was arrears of rent to the tune of Rs.1,03,925/- pending from the year 01.10.1997 to 14.10.2004.

3. The contention of the petitioner is that the petitioner was appointed to that place on 15.01.2014 and earlier incumbent have not taken any action from the year 01.10.1997 to 14.01.2004. The 3rd respondent suo moto without any notice issued recovery order vide proceedings dated 29.11.2013 effecting recovery of Rs.5,000/- per month from November 2013 to 30.06.2014 as stated in paragraph 5 of the audit report relating to Fasli year 1413. The respondents initiated action against the petitioner and one R.Avudaiappan for the arrears of rent from Kadhi Board. The respondents have recovered Rs.5,000/- from the petitioner's salary from November 2013 onwards. The petitioner submitted a representation on 23.12.2013 praying not to recover. The respondents have not initiated any recovery against the said Avudaiyappan. In the meanwhile, Kadhi Board has remitted the entire amount which is evident from the proceedings dated 15.12.2014 where it is been stated that paragraph 5 of audit report has been rectified and there is nil letter given by the Auditing Officer Grade I.

4. The respondents have not filed any counter but submitted that the petitioner has not handed over the charge to the subsequent incumbent. Until and unless the charge was handed over, the petitioner is not entitled to the terminal benefits.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials on record.



6. The allegation against the petitioner is that the petitioner failed to take steps to collect the rent from the Kadhi Board. It is seen from the records that Kadhi Board was rented in the said building from the year 1997 onwards and there were arrears of rent. The respondents have filed suit and based on that recovery proceedings were initiated. The petitioner joined in the said post on 05.01.2004. The respondents have not taken any action against the previous incumbents who were holding the said post. Based on the rental agreement between the temple and the Kadhi Board, since the petitioner has not taken any action, the entire amount has been fasten on the petitioner that too on the verge of his retirement.

7. When the matter was taken up for hearing, it is submitted by the petitioner that the entire amount has been paid by the Kadhi Board and it is certified through communication dated 15.12.2014 where it has been stated for Fasli year 1413, the objection in paragraph 5 is nil. The contention of the petitioner that the respondents have not taken any action against the pervious incumbents and therefore the respondents cannot fasten the entire liability on the petitioner is acceptable and therefore, this Court is of the considered view that the entire amount cannot be fasten on the petitioner. Since the amount is received by the respondents, this Court is of the considered opinion that the action against the petitioner ought to be set aside. Consequently the petitioner is entitled to the terminal benefits.

8. The second objection raised by the respondent is that the petitioner has not handed over the charge. The petitioner submitted that he has already handed over to one Thiru. Neelakandan. Therefore, this Court is of the considered opinion that the contention of the respondents is incorrect.

9. Therefore this Court directs the respondents to disburse the terminal benefits, all other monetary benefits that is applicable to the petitioner. The said exercise shall be completed within a period of 12 weeks from the date of receipt of copy of this order. If the respondents fails to pay within 12 weeks from the date of receipt of the copy of the order, the same shall carry interest after the said time stated above.

10. The Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

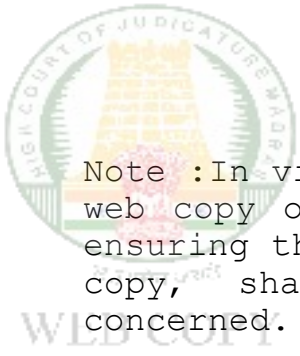
Sd/-

Assistant Registrar (RECORDS)

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/ /2022

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.

To

- 1.The Commissioner,
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Endowment Department,
119, Uthamargandhi Salai,
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Sankarankovil,
Tirunelveli District-627756.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-3889[F] dated 03/02/2022)

W.P (MD) No.15326 of 2015

02.02.2022

USK(26.02.2022) 4P 5C