



WEB COPY



W.P.Nos.26353 of 2012, etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.08.2023

Pronounced on : 12.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.26353, 26354, 25310, 26408, 26355, 26356,
25311, 25312 & 26293 of 2012 and
MP.Nos.1 of 2012(2 Nos.), 2 of 2012(7 Nos.),
1 of 2013(8 Nos.), 1 of 2014(7 Nos.)

WP.No.26353 of 2012

- 1.G.Sriramalu
- 2.S.Kesavalu
- 3.G.Kamalnath
- 4.D.Selvakumar
- 5.D.Chidambaram
- 6.K.Gnanavel
- 7.K.Veerassamy
- 8.K.Gunasekaran
- 9.R.Vijayan
- 10.A.G.Loganathan
- 11.M.K.Ellappan
- 12.D.Gunasekaran
- 13.K.R.Prasad

... Petitioners

Vs.

- 1.The Commissioner,
H.R.&C.E.,
Uthamar Gandhi Salai,
Nungambakkam, Chennai 600 034



W.P.Nos.26353 of 2012, etc batch

2.The Joint Commissioner / Executive Officer,
Temple Administration – Arulmighu
Subramaniaswamy Thiru Koil,
Tiruttani

3.The Chairman, Trust Board,
Arulmighu Subramaniaswamy Thiru Koil,
Tiruttani

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent culminating in the impugned order dated 05.09.2012 made in Na.Ka.No.479/2012/A.2 and quash the same and consequently direct the respondents to grant continuity of service to the petitioners under the second respondent herein will all attendant service benefits.

For Petitioners
in all WP's : Mrs.G.Thilakavathi,
Senior Counsel
for Mr.R.Gopinath

For Respondents
in all WP's

For R1 : Mr.S.Yashwanth,
Additional Government Pleader
(HR & CE)



W.P.Nos.26353 of 2012, etc batch

WEB COPY

For R2 & 3 : Mr.P.Gopalan

COMMON ORDER

These writ petitions have been filed challenging the orders passed by the second respondent dated 05.09.2012 thereby cancelled the petitioners' appointment to their respective posts.

2. Heard, the learned counsel appearing on either side.

3. The petitioners are the employees of the second respondent Temple. They were initially appointed on daily wage basis and thereafter they have been recruited by the second respondent and they have been assigned the work of playing musical instruments in the second respondent temple and also as Cook, Sweeper, Gurukkal and as Last Grade Servant. Initially, they have been engaged as NMR's / daily wage employees. Ancestors of the petitioners were engaged for playing instruments and at other works at the time of performing pooja to the second respondent temple. It does not require any specialised expertise



W.P.Nos.26353 of 2012, etc batch

or knowledge and by reason of the fact that the forefathers of the petitioners were trained by virtue of practice, they have been paid honorarium and the third respondent decided to utilise their service in a permanent manner and granted the benefit of permanent employment to them by posting them in the vacant posts available on the schedule of establishment of the temple. The erstwhile recruitment rules which were in vogue for appointment to the second respondent temple had no minimum general education qualification taking into account the need of granting employment to the experienced employees like petitioners, a committee constituted and it had recommended essential educational qualification as fifth standard.

4. However, the petitioners were directed to submit their educational qualification as contemplated under the General Service Rules for approval of their appointment. In spite of having information of the fact that the petitioners had no qualification as per Tamilnadu Ministerial Service Rules, but being satisfied with their sufficient experience, the service of the petitioners were put up as if they had such



W.P.Nos.26353 of 2012, etc batch

qualifications. At the time of recruitment, the service rules available to the ministerial service were adopted by the second respondent for selection to the vacant posts and in consideration of such requirement, the third respondent who were in administration at the relevant point of time, required the petitioners herein to submit such educational qualification as contemplated under the General Rules for approval of their appointment. At the instance of the third respondent, the service of the petitioners were put up as if they had such qualification. After completion of the third respondent's term in the month of February 2012, the petitioners were served with show cause notice.

5. On receipt of the same, the petitioners submitted their explanation, that the fabricated records were involuntarily put up at the instance of the third respondent, had also compelled the petitioners to plead guilty even while seeking for condonation of the error committed at the instance of the third respondent. All the petitioners are qualified with V standard and above. Therefore, there is no need to submit fabricated records. It was only at the instance of the third respondent by contending that the incumbents are required to submit VIII standard pass



W.P.Nos.26353 of 2012, etc batch

certificate, the fabricated records have been temporarily submitted on their behalf. Now the recruitment rules, which are applicable to the temple have been brought into implementation, recommended for qualification of V standard pass. However, final rules approved and notified that the requisite qualifications of such category of course enumerated in Annexure-1 Part-IV of the recruitment rules, contemplate qualifications as prescribed in the Tamilnadu Ministerial Services as specified in Rule 13. On receipt of the show cause notice, the petitioners submitted their detailed representation, However without considering the explanation submitted by the petitioners and without even examining qualification of the petitioners and the service put up by them, passed the impugned order. The respondents did not even conduct any enquiry. It is contrary to law and in violation of the principles of natural justice. All the petitioners have put up 5 to 10 years of service as daily wager when the recruitment rules at the time of their recruitment caused to the petitioner did not contemplate any specific qualification insofar as work executed by the petitioners as musical instrument players and other workers.



W.P.Nos.26353 of 2012, etc batch

WEB COPY

6. On perusal of the counter filed by the respondents revealed that the second respondent temple is one of the ancient temple in Tamilnadu and it is a public temple notified under Section 46 (iii) of the Tamilnadu Hindu Religious and Charitable Endowments Act 22 of 1959. It is being administered by the third respondent with assistance of Executive Officer in the cadre of Joint commissioner appointed by the Government of Tamilnadu subject to the control of the first respondent. The petitioners were working in the post of playing musical instruments such as Nadhaswaram, Melam, Thavil, Sruthi, Thalam, Sundol, Sweeper, Cook on daily wage basis. Thereafter, in pursuant to the proceedings dated 31.05.2007, the petitioners were appointed in their respective posts in the regular vacancy. At the time of their regularisation, in order to maintain service records, the petitioners were asked to submit their application along with the requisite educational qualification certificates. On receipt of the complaints with regards to the fabrication of educational certificates submitted by the petitioners, the respondents verified the educational certificates which were produced by the



W.P.Nos.26353 of 2012, etc batch

petitioners. All the educational certificates were sent to respective schools for verification and in response, it was found that all the educational certificates submitted by the petitioners have not been issued by the respective schools. All are found to be fake. Therefore, the petitioners were issued show cause notice and they categorically admitted that they have produced false educational certificates at the time of their regularisation. Therefore, the petitioners have accepted their guilt in their reply. As such, the third respondent passed resolution No.44 of dated 05.09.2012 to terminate the service of the petitioners from the temple. In pursuant to the resolution, the third respondent by the proceedings dated 05.09.2012 passed the order of termination to the respective petitioners.

7. Thereafter, the second respondent issued notification calling for appointment to various posts including Archagar, Oduvar, Paricharakar, etc and the same was challenged by the petitioners before this Court in WP.No.18565 of 2000. Though it was allowed by the learned Single Judge of this Court, in the writ appeal, the petition filed



W.P.Nos.26353 of 2012, etc batch

by the petitioners was dismissed in WA.No.2846 of 2003. The Hon'ble Division Bench of this Court observed that in respect of future vacancies in the post of Cook, Watchman, Sweeper, etc, on the basis of their seniority, eligibility and willingness, the petitioners may be accommodated. Till such time, the petitioners shall be allowed to continue on daily wage basis. The petitioners were regularised to the following posts and their education qualifications are as follows:

WP.No.26353 of 2012

S. No	Petitioner Name	Date of Regularisation	Designation	Certificate submitted at the time of joining service
1	G.Sriramalu	31.05.2007	Nadaswaram	V Pass
2	S.Kesavalu	31.05.2007	Shruthi	VIII Fail
3	G.Kamalnath	09.01.2008	Shruthi	VII Fail
4	D.Selvakumar	09.01.2008	Tavil	VIII Fail
5	D.Chidambaram (deceased)	17.06.2008	Tavil	VII Fail
6	K.Gnanavel	09.01.2008	Nadaswaram	VII Fail
7	K.Verasamy	31.05.2007	Thalam player	V Pass
8	K.Gunasekar	08.07.2009	Melam	V Pass
9	R.Vijayan	11.01.2008	Thalam and Tavil	VII Discontinued



W.P.Nos.26353 of 2012, etc batch

10	A.G.Loganathan	31.05.2007	Tavil	VII Pass
11	M.K.Ellapan	09.01.2008	Shruthi	V Pass
12	D.Gunasekaran	31.05.2007	Sundol	VII Fail
13	K.R.Prasad	31.05.2007	Tavil	VII Pass

WP.No.25310 of 2012

S. No	Petitioner Name	Date of Regularisation	Designation	Certificate submitted at the time of joining service
1	Mohana	14.08.2007	Last Grade Servant	V Std
2	Devi	14.08.2007	Last Grade Servant	IV Std
3	Bhoolakshmi (retired)	14.08.2007	Last Grade Servant	IV Std
4	V.R.Ravi	14.08.2007	Last Grade Servant	V Std

WP.No.25311 of 2012

S. No	Petitioner Name	Date of Regularisation	Designation	Certificate submitted at the time of joining service
1	M.Shanmugam	28.03.2008	Last Grade Servant	V Pass
2	S.Suresh (handicapped)	28.03.2008	Last Grade Servant	VI Fail



W.P.Nos.26353 of 2012, etc batch

3	M.Prakash	09.01.2008	Last Grade Servant	X Fail
4	P.Murali	09.01.2008	Last Grade Servant	VI Detained

WP.No.25312 of 2012

S. No	Petitioner Name	Date of Regularisa- tion	Designation	Certificate submitted at the time of joining service
1	A.Siva	28.03.2008	Last Grade Servant	X Fail
2	D.Parthasaradhi	17.03.2011	Last Grade Servant	V Pass

WP.No.26293 of 2012

S. No	Petitioner Name	Date of Regularisa- tion	Designation	Certificate submitted at the time of joining service
1	D.Palani		Cook	

WP.No.26354 of 2012

S. No	Petitioner Name	Date of Regularisa- tion	Designation	Certificate submitted at the time of joining service
1	Vaijanthimala	17.05.2011	Sweeper	VII



W.P.Nos.26353 of 2012, etc batch

				Discontinued
2	V.Gowri	08.07.2009	Sweeper	VII Discontinued
3	S.Sekar	17.05.2011	Sweeper	V Discontinued
4	Lakshmamma	17.05.2011	Sweeper	X Discontinued

WP.No.26355 of 2012

S. No	Petitioner Name	Date of Regularisation	Designation	Certificate submitted at the time of joining service
1	K.Giridhar	17.06.2008	Thalam	Intermediate Pass - (AP)
2	D.Govindharajan	01.06.2007	Shruthi	X Discontinued

WP.No.26356 of 2012

S. No	Petitioner Name	Date of Regularisation	Designation	Certificate submitted at the time of joining service
1	Rajappa Gurukkal (Retired)	17.06.2008	Gurukkal	No formal Education
2	M.Kesavalu	01.06.2007	Dhaval	No formal Education



W.P.Nos.26353 of 2012, etc batch

WP.No.26408 of 2012

WEB COPY

S. No	Petitioner Name	Date of Regularisation	Designation	Certificate submitted at the time of joining service
1	J.Logesh	01.06.2007	Sandal	XI Discontinued

8. All the petitioners were terminated from their service on 05.09.2012. The qualification for their respective posts are given in the Tamilnadu Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020. Insofar as the petitioners, it is coming under the XII and XIII category for which there is no educational qualification and they shall read and write in Tamil. All the petitioners are qualified with V standard to XI standard. They all know to read Tamil and also write in Tamil. Therefore, all the petitioners are qualified to appoint to their respective posts. The petitioners were terminated only on the ground that they had submitted fake educational certificates while their services were regularised.

9. The question is whether production of such fake documents



W.P.Nos.26353 of 2012, etc batch

had anyway persuaded the third respondent to regularise the appointment of the petitioners or whether the production of such fake educational certificates had excluded the claim of any meritorious candidate. The qualification for petitioners' respective posts in which the petitioners were regularised is that the candidate must know to read and write in Tamil. No other educational qualification is prescribed as per amended rules. The third respondent called upon the petitioners to produce their educational certificates to regularise their appointment as directed by the Hon'ble Division Bench of this Court in WA.No.2846 of 2003 by an order dated 19.01.2007. The Hon'ble Division Bench of this Court while dismissing the writ appeal in part, directed to appoint the petitioners against any vacancy arising in future on the basis of their seniority, eligibility and willingness. Therefore, the third respondent insisted upon production of educational certificates from the petitioners. Therefore, in order to regularise the petitioners, the educational certificates were produced which is wholly uncalled for. Further, those educational certificates would not give the petitioners any additional rights in the matter of promotion or any other monetary benefits. Admittedly, no



W.P.Nos.26353 of 2012, etc batch

notification was issued for any post which was occupied by the petitioners and only for the purpose of regularising their services, they were called upon to produce their educational certificates.

10. Admittedly, they were working in their respective posts as NMR's / daily wage employees for 5 to 10 years before the date of regularisation. Further, admittedly no enquiry was conducted by the enquiry officer and the petitioners were not given opportunity to defend their case. In fact, no charge sheet was served on them and no opportunity was given to them to explain for the production of alleged fake educational certificates. Even assuming that the petitioners admitted their guilt, enquiry shall be conducted in order to prove that the educational certificates were found to be fake one since they disputed the educational certificates. The erstwhile Board of Trustees were being instrumental in putting up the fabricated records on behalf of the petitioners, which was without the knowledge of the petitioners.

11. It is also seen that the erstwhile recruitment rules which



W.P.Nos.26353 of 2012, etc batch

were in vogue for appointment to the second respondent temple had no minimum general educational qualification, taking into account the need of granting employment to the experienced employees like the petitioners, the committee constituted in this regard had recommended the essential educational qualification as V standard insofar as the posts in which the petitioners were employed. But the third respondent who were in administration at the relevant point of time required the petitioners to submit such educational qualifications as contemplated under the General Service Rules for approval of their appointment. Therefore, there was no need for the petitioners to submit fabricated records. Now the petitioners produced their respective educational certificates and revealed that all the petitioners have passed V standard to XI standard. As stated supra, they ought to have been given opportunity before passing the impugned order. Further, in view of the interim order passed by this Court, all the petitioners are continuing in their respective posts.

12. In view of the above, the impugned orders are liable to be



W.P.Nos.26353 of 2012, etc batch

quashed. Accordingly, the impugned orders dated 05.09.2012 are quashed and all the writ petitions are allowed. The second and third respondents are directed to continue the petitioners' services with continuity of service and with all attendant and service benefits. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

12.09.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
lok



WEB COPY



W.P.Nos.26353 of 2012, etc batch

G.K.ILANTHIRAIYAN, J.

lok

To

- 1.The Commissioner,
H.R.&C.E.,
Uthamar Gandhi Salai,
Nungambakkam, Chennai 600 034
- 2.The Joint Commissioner / Executive Officer,
Temple Administration – Arulmighu
Subramaniaswamy Thiru Koil,
Tiruttani
- 3.The Chairman, Trust Board,
Arulmighu Subramaniaswamy Thiru Koil,
Tiruttani
- 4.The Government Advocate
High Court, Madras.

W.P.Nos.26353, 26354, 25310, 26408, 26355,
26356, 25311, 25312 & 26293 of 2012

12.09.2023