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W.P.No.28463 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.28463 of 2013
and M.P.Nos.1 and 2 of 2013

R.Nagarajan

..... Petitioner

-Versus-

1.The Deputy Commissioner / Executive Officer,
A/m Subramaniaswamy Temple,
Marudhamalai, Coimbatore.

2.The Commissioner,
Hindu Religious & Charitable Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai 600034.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorari calling for the entire records pertaining to the impugned order dated 23.07.2013 made in Na.Ka.No.16531/13/22 passed by the 2nd respondent and consequential impugned orders dated 15.09.2013 made in Na.Ka.No.274/12 A3 and Se.Mu.Na.Ka.No.274/12 A3 and quash the same.

For Petitioner : *Mr.M.E.Raviselvam*
for Mr.K.Govindan

For Respondents : *Mr.V.S.Usha Rani for R1*

Mr.S.Yeshwanth
Additional Government Pleader
for R2



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ORDER

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This writ petition challenges the order of the 1st respondent dated 23.07.2013 made in Na.Ka.No.16531/13/22 and the consequential proceedings of the 2nd respondent dated 15.09.2013 in Na.Ka.No.274/12 A3 and Se.Mu.Na.Ka.No.274/12 A3.

2. The petitioner, at the time of filing the writ petition, was working as Assistant-cum-Typist in the 1st respondent temple. The 1st respondent temple is wholly administered by the 2nd respondent. The petitioner had joined the services of the temple as a Ticket Clerk on 02.05.1974. His scale of pay was revised in the year 1986 and fixed in the cadre of Assistant. After putting in nearly four decades of service, he got retired on 30.11.2014. In and about 2011, one V.Theagarajan filed a writ petition stating that there are large scale misappropriation that are taking place in the temple. He also filed a petition before the 2nd respondent invoking the powers under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (for short “**HR & CE Act**”).

3. Pursuant to the order passed by this court in W.P.No.29663 of 2011 whereunder, this court had directed the authorities to conduct an enquiry into the grievances of V.Theagarajan and take action, a committee was formed by



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the Commissioner, HR & CE, consisting of

- WEB COPY (i) Additional Commissioner (Enquiry),
(ii) Deputy Commissioner (Legal); and
(iii) Assistant Commissioner (Verification of Gold)

to go into the issues raised by the said V.Theagarajan. At the first instance, straight away the petitioner was visited with an adverse order.

4. Challenging the same, he filed a writ petition. The said writ petition was allowed by this court directing the respondents to call the petitioner for enquiry, conduct the same in accordance with law and in compliance with principles of natural justice and thereafter, pass an order thereof.

5. Pursuant to the committee's order, the impugned order came to be passed. As per the impugned order, an order of recovery was passed against the petitioner and he was held solely responsible for having designated himself as Assistant-cum-Typist.

6. I have gone through the typed set of papers filed before this court. It is relevant to point out, that by a proceeding dated 29.12.1986, it was the Deputy Commissioner, Coimbatore, who had approved the proposal of the Executive Officer promoting the petitioner to the post of Assistant-cum-Typist. This proceeding was passed nearly 4 decades ago on 29.12.1986. Therefore, to lay the entire blame on the petitioner does not hold water.



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7. Apart from this, the proceedings of the board of trustees would go on to show that the board of trustees had also approved the post which the petitioner was holding as Assistant-cum-Typist.

8. Mrs.V.S.Usha Rani, learned counsel appearing for the 1st respondent would submit that no such post of Assistant-cum-Typist is available. As per the list of approved posts there is neither the post of Typist nor the post of Assistant. Therefore, she would contend that impugned order is correct. The facts reveal that the petitioner was employed in the lowest cadre in the temple. He did not have any administrative power or supervisory jurisdiction over post to which he was called upon to work. It was the Executive Officer who had placed a proposal before the board of trustees and the board of trustees had also approved the same. This act of the Executive Officer as well as the Board of Trustees found approval with the Joint Commissioner, HR & CE. The post of Joint Commissioner, HR & CE is the highest authority available in the Districts. It flummoxes me as to how a person who was working as Typist could be fixed with the entire responsibility for having promoted himself, when the office file has gone through so many stages and finally reached the highest authority, who had jurisdiction over the matter.

9. It is not a case where the petitioner is responsible for promoting himself and fixing his scale of pay. It was the case where, as pointed out above,



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the office file, went through a series of hierarchical authorities. I am unable to accept the arguments of the learned counsels for the respective respondents that the enquiry committee had found that it was the Assistant who had manipulated all the records.

10. Be that as it may, the promotion was given to the petitioner in the year 1986 and visiting him with an order after nearly three decades, is not only unfair, but, also arbitrary. In the mean time, the said temple had, admitted, been managed by several Executive Officers. It is beyond one's comprehension as to how each and every Executive Officers utilized the services of the petitioner and could plead ignorance. I find this plea is nothing but amazing. I feel that in order to give quietus to the complaint given by V.Theagarajan, the petitioner has been made a scapegoat. I am unable to accept the reasons found in the impugned order. The impugned order is liable to be quashed.

In the result, the writ petition succeeds and the same is allowed accordingly. The impugned proceedings are quashed. No costs. Consequently connected MPS are closed.

Index : yes / no
Neutral Citation : yes / no

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To

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V.LAKSHMINARAYANAN, J.

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