



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.4568 of 2017

and

W.M.P.No.4779 of 2017

1.V.Murali

2.S.Sarathy

... Petitioners

Vs.

1.The Government of Tamil Nadu,
rep. by its Secretary,
Hindu Religious and Charitable Endowment Department,
Fort St. George,
Chennai – 600 009.

2.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Uthamar Gandhi Salai, Nungambakkam,
Chennai – 600 006.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Dr.Balasundaram Road,
Coimbatore – 18.

4.The Joint Commissioner / Executive Officer,
Arulmigu Thirumuganathan Swamy
Thirukoil, Thirumurugan Poondi,
Avinashi Taluk, Thriuppur District – 641 652.



5. The Board of Trustees / The Fit Person,
Arulmigu Thirumiuganathan Swamy Thirukoil,
Thirumurugan Poondi,
Avinashi Taluk,
Thiruppur District – 641 652.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records culminating in the order of the 1st respondent dated 07.09.2015 made in Sua Motu Revision No.14 of 2015 /D2 and quash the same and consequently allow the petitioners to continue to receive the revised scale of pay benefits approved by the 3rd respondent as per the proceedings dated 06.09.2012 made in No.7215/2012/A2 with all future revisions of pay scale.

For Petitioner	: Mrs.G.Thilagavathi Senior Counsel For Mr.R.Gopinath
For Respondents	: Mr.C.Jayaprakash Government Advocate [For H.R.&.C.E]

ORDER

The writ petition has been filed challenging the order of the 1st respondent dated 07.09.2015 made in Sua Motu Revision No.14 of 2015 /D2 and consequently allow the petitioners to continue to receive the revised



scale of pay benefits approved by the 3rd respondent as per the proceedings dated 06.09.2012 made in No.7215/2012/A2 with all future revisions of pay scale.

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2. By considering the order passed by this Court in W.P.No.6558 of 2017 on 05.12.2022 in the case of S.Vellathal and K.Chitra belonging to the same Temple at Avinashi and by challenging the order of the 4th respondent dated 19.10.2015 and further directing the respondents to allow the petitioners to continue to receive the revised scale of pay as approved by the 3rd respondent as per the proceedings dated 06.09.2012 with future revisions of pay scale.

3. The matter was argued before the Single Judge and the same Senior Counsel appeared for the petitioner and Additional Government Pleader for the respondents therein. According to the counsels, based on the suo-motu revision, the Commissioner, Hindu Religious and Charitable Endowment Department Revision No.14/2015/D2 dated 07.09.2015, the scale of pay was revised by the Commissioner and the suo-motu revision by the Commissioner was imposed before issuing any impugned order to them. In the said



impugned order, it was stated that the excess payment of salary has been paid to the petitioners and that should be recovered from the petitioner through instalments. Challenging the said order, the two persons namely one S.Vellathal and K.Chitra filed a writ petition in W.P.No.6558 of 2017.

4. According to the petitioners therein no orders have been issued to them and only recovery has been made. However, it is seen that the petitioner herein namely V.Murali and S.Sarathy, have challenged the same recovery proceedings in the present writ petition.

5. The learned Government Advocate appearing on behalf of the Hindu Religious and Charitable Endowment Department Submitted that the suo-motu revision order itself has been cancelled by authority himself. Therefore, the petitioners will be entitled for the amount, which has already been recovered from them. Accordingly, the impugned order dated 19.10.2015 passed by the 4th respondent was quashed and consequently, directed the 4th respondent to refund the amounts that have already been recovered from the petitioners therein and the Writ Petition was allowed on the ground that the impugned recovery order was cancelled.



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6. It is contended that a Review Application was filed by the Hindu Religious and Charitable Endowment Department. In the said Review Application (Writ) No.27 of 2023, the Court held that the impugned order in that writ petition emanates from suo-motu revision order passed by the Joint Commissioner / 4th petitioner in the Review Application against the employees namely S.Sarathy and V.Murali. The Executive Officer of the Temple, 4th petitioner in the Review Application had placed reliance on the said order and sought for recovery of the excess salary paid to the petitioners in this writ petition.

7. Further, the Single Judge of this Court in the Revision Application held that the genesis of the case, prompting the Joint Commissioner, to invoke powers under Section 21 of the Act, emanates from fixation of time scale of pay to the temporary employees of the Temple, which fixation was held to be illegal and irregular, insofar as it relates to the employees S.Sarathy and V.Murali. The mischief played by the 4th petitioner, is by applying this suo-motu revision passed in the case of S.Sarathy and V.Murali to the respondents 1 and 2 in the Review Application.



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8. As per the Court order, the Board of Trustees had taken into consideration the long services rendered by S.Vellathal and K.Chitra and granted the benefits of revision of scale of pay. The proposal was also forwarded to the 3rd petitioner in the Review Application / Competent Authority, for approval. The 3rd petitioner Review Application through his proceedings dated 06.09.2012, had also approved the benefits of revision of pay granted to S.Vellathal and K.Chitra. Such an action was not interfered with, by the Commissioner.

9. According to the Court, merely because an order under Section 21 of the Act, has been passed in the case of some other employees, it will not empower or enable the 4th petitioner in the Review Application to apply such an order to the S.Vellathal and K.Chitra and seek for recovery of the alleged excess payments. Unless and until, the order of approval of pay revision is interfered with, no recovery can be made. Consequently, the impugned order passed by the 4th petitioner in the Review Application dated 19.10.2015 for recovery cannot be sustained.



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10. According to the learned Single Judge of this Court, the earlier order passed in W.P.No.6558 of 2017 dated 05.12.2022, was hereby recalled and made it clear that the amounts recovered from the employees shall be refunded to S.Vellathal and K.Chitra and the writ Petition in W.P.No.6558 of 2017 is allowed and the Review Application ordered accordingly.

11. In view of the above decision taken by the Hon'ble Mr.Justice M.S.Ramesh, this Court is of the view that the same will stand, which has been passed on this petitioners herein. The order passed in Review Application stands in favour of the petitioners and the Writ Petition in W.P.No.6558 of 2017 is allowed and the directions issued in the said writ petition are also to be complied with by the respondents to the petitioners herein also.

12. With the above said directions, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

30.11.2023

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Index : Yes / No



Neutral Citation : Yes / No
Speaking order : Non-speaking order

To

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Chennai – 600 009.
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