



W.P(MD)No.10408 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10408 of 2023

and

W.M.P.(MD)Nos.9208 & 9209 of 2023

K.Deivanai Karthikeyan

... Petitioner

Vs.

**1.The Commissioner,
Hindu Religious and Charitable Endowments,
Nungambakkam High Road,
Chennai.**

**2.The Joint Commissioner/Executive Officer,
Arulmighu Ramanathasamy Thirukoil,
Rameswaram.**

**3.The Fit Person,
Arulmighu Ramanathasamy Thirukoil,
Rameswaram**

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating tot he impugned proceedings in Na.Ka.No.15176/2023/z4, dated 31.03.2023 of the first respondent herein and quash the same and consequently, direct the respondents to promote the petitioner as Junior Assistant in the second respondent temple with effect from 09.10.2018 with all service and monetary benefits and all attendant benefits.



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For Petitioner : Mr.VR.Shanmuganathan
For Respondents : Mr.C.Baskaran
Government Advocate for R1
: Mr.S.Ramesh for R2 & R3

ORDER

Heard the learned counsel on either side.

2. The petitioner was appointed as “ Panipen” in the third respondent temple in the year 2013. The fit person recommended promoting the petitioner as Junior Assistant. Now, the first respondent has taken the stand that since the post of “ Panipen” is not in the feeder grade, the proposal of the fit person cannot be accepted. The said order is put to challenge in this writ petition.

3. The conditions of service of the temple servants is governed by the provisions of Tamil Nadu Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020. Annexure-I deals with the post of Junior Assistant. The method of appointment and qualification set out is as follows:-



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<i>Category-VI</i>	<i>Method of Appointment</i>	<i>Qualification</i>
1.Junior Assistant 2.Clerk-cum-Surveyor 3.Store Keeper 4.Suit Clerk 5.Collection Clerk 6.Chathiram Keeper 7.Junior Clerk 8.Ticket Sales Clerk 9.Register Clerk 10.Inai-uab Kovil Clerk	1. By direct recruitment 2.By promotion from among the holders of the post of Record Clerk; or Record Room Clerk; or Duffador; Office Assistant or Last Grade Servant	A pass in SSLC or its equivalent qualification recognised by the Government A pass in SSLC or its equivalent qualification recognized by the Government. Provided that he must possess five years of experience in the feeder category.

4. Admittedly, the post of “ Panipen” is not falling within the feeder grade. It is true that the petitioner was appointed as “ Panipen” before the new Rules came into force. But then, under 2020 regime, the petitioner did not have any vested right of promotion. Therefore, the saving clause set out in the Rules will not come to the petitioner's rescue. However, there is considerable merit in the contention of the



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learned counsel appearing for the petitioner that the petitioner cannot be retained in the post of “Panipen” indefinitely. Any servant is entitled to promotion. For the post of “Panipen”, promotion is to that of Office Assistant. The qualification prescribed for the said post is only passed in 8th standard. The petitioner has cleared SSLC and she is eligible to be posted even as Junior Assistant. Even while sustaining the impugned order, I direct the second respondent to submit a revised proposal for promoting the petitioner as Office Assistant. This shall be done within a period of four weeks from the date of receipt of a copy of this order. Upon receipt of the proposal, the first respondent shall accord his approval. It is open to the petitioner herein to submit a representation to the respondents after being promoted as Office Assistant to be further promoted as Junior Assistant. The petitioner can very well state in her representation that she was appointed on compassionate ground and as per the policy of the Government, she must have been as Junior Assistant. If the appointee is having requisite qualification, even though in the Rules, there is a stipulation that one must possess five years experience in the feeder grade, considering the special facts and circumstances obtaining in the case, it is open to the respondents to



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consider relaxing the same. These are matters that are left entirely to the discretion of the authority to take a holistic view.

5. With this direction, the writ petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

23.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

RMI / PMU

To

The Commissioner,
Hindu Religious and Charitable Endowments,
Nungambakkam High Road,
Chennai.



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G.R.SWAMINATHAN, J.

RMI / PMU

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