



W.P.(MD)No.17116 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.17116 of 2023

and

W.M.P.(MD)No.14328 of 2023

Arulmigu Gopalakrishnaswamy Etc
Temples,
represented by its Managing Trustee,
Meena D.Bhattacharya,
Krishnapuram, Kadayanallur,
Tenkasi District.

... Petitioner

vs.

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Tuticorin.

2.S.Kalaivanan

... Respondents



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W.P.(MD)No.17116 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for records of the impugned order passed by the 1st respondent in A.P.No.2 of 2022, dated 15.03.2023 and to quash the same.

For Petitioner	: Mr.AV.Soma Sundaram Senior Counsel for Mr.RM.Arun Swaminathan
For R1	: Mr.S.Kameswaran Government Advocate
For R2	: Mr.S.Ram Sundar Vijayraj *****

ORDER

This writ petition is filed for writ of Certiorari, to quash the impugned order passed by the 1st respondent in A.P.No.2 of 2022, dated 15.03.2023.

2. The petitioner temple is coming under the provisions of the



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W.P.(MD)No.17116 of 2023

HR&CE Act. The 2nd respondent was appointed by the Commissioner of HR and CE on 20.09.2011 as Clerk on consolidated basis. The contention of the temple is that the Commissioner himself is not having any power to appoint any person to the religious institutions directly. The allegation against the 2nd respondent by the temple is that the 2nd respondent is not doing any work in the temple or office. He shows disobedience and disrespect to the managing trustees and shows adamant attitude. Further, he has committed certain irregularities, hence, the temple suspended the 2nd respondent on 29.03.2014. The 2nd respondent approached the Joint Commissioner and obtained stay on 07.04.2014. Based on the said order, the 2nd respondent was permitted to join on 08.04.2014 and he worked till 04.09.2014. Thereafter, he absented from the service without due intimation to the petitioner. Hence, the temple



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W.P.(MD)No.17116 of 2023

issued notice to the 2nd respondent to join the service.

3. In the meanwhile, the 2nd respondent approached the Joint Commissioner after a lapse of 3 years who revoked the suspension order on 19.05.2017. Then the Executive Officer of the temple issued a letter, dated 31.07.2017, directing the 2nd respondent to join duty again. The 2nd respondent did not report for work. Thereafter, the petitioner initiated disciplinary proceedings and finally 2nd respondent was dismissed from service on 09.02.2019. The 2nd respondent challenged the same and filed W.P.(MD)No.5354 of 2018 and on 12.03.2018, the writ petition was dismissed. Thereafter, he approached the 1st respondent after a delay of 462 days. The 2nd respondent is not having any power to condone the delay or to grant any interim order. The 1st respondent passed the



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W.P.(MD)No.17116 of 2023

in service in the petitioner temple, the parties will indulge in litigation and it will affect the smooth functioning of the temple. Therefore, in order to resolve this issue, this Court has directed the 1st respondent to submit the list of temples indicating available vacancy, so that the 2nd respondent can be accommodated in the said vacancy.

6. On instructions, the learned Government Advocate appearing for the 1st respondent submitted that the 1st respondent has given list of the temples where vacancy is available. The 2nd respondent can be accommodated in the temple mention in Serial No. 4 namely Nachadai Thavirtharuliya Swamy temple, Devathanam, Virudhunagar. Therefore, the 1st respondent is directed to issue appointment order to the 2nd respondent, appointing in the 4th temple in the list. The 2nd respondent is



W.P.(MD)No.17116 of 2023

entitled to continuity of service but not entitled to any backwages. Therefore, confirming the impugned order of setting aside of the dismissal order, this Court is modifying the impugned order to the extent stated supra.

7. With the above said directions, the writ petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

31.07.2023

Internet : Yes

NCC : Yes / No

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W.P.(MD)No.17116 of 2023

To

The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Tuticorin.



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W.P.(MD)No.17116 of 2023

S.SRIMATHY, J

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W.P.(MD)No.17116 of 2023

31.07.2023