



W.P.(MD).No.8587 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 21.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.8587 of 2016

and

W.M.P.(MD).Nos.6880 and 6881 of 2016

B.Balasubramanian

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam,
Chennai.

2.The Assistant Commissioner/Executive Officer,
Arulmigu Thirumalaikumarasamy Thirukovil,
Hindu Religious and Charitable Endowment Department,
Panpozhi,
Shencottai Taluk,
Tirunelveli District – 627 807.

3.K.Ganapathy

... 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 in pursuant to the impugned order passed by the second respondent in Che.Mu.Na.Ka.No:82/2015 dated 13.10.2015 and quash the same and



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consequently directing the first and second respondents to appoint the petitioner as Cook in Annadhanam Scheme in Arulmigu Thirumalaikumarasamy Temple, Panpozhi, Shencottai Taluk, Tirunelveli District.

For Petitioner : Mr.S.Madhavan

For R-1 : Mr.M.Senthil Ayyanar,
Government Advocate.

For R-2 : Mr.S.Manohar

For R-3 : No Appearance

ORDER

This Writ Petition is filed challenging the order dated 13.10.2015 and consequently direct the respondents to appoint the petitioner as Cook in the Annadhanam Scheme in the respondent Temple.

2. The petitioner was appointed as Cook in the Arulmigu Thirumalaikumarasamy Temple, Panpozhi, Shencottai Taluk, Tirunelveli District from the year 2003 and he was feeding atleast 50 pilgrims under the Annadhanam Scheme. The said Temple is situated in the top of the Hillock.



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The petitioner by lifting all the cooking materials on his head has to climb the hill, where the steps were not in proper condition. The petitioner had served the Temple even during tougher times. Therefore, his health was spoiled and had suffered back pain and had underwent surgery. During such medical treatment, he was not able to report duty. When he was taking treatment, the respondents, without any prior notice to the petitioner, have filled the post by appointing the third respondent vide impugned order. Aggrieved over the impugned order, the present Writ Petition is filed.

3. It is seen that the third respondent is working in the said post for the past seven years from 2016 onwards and therefore, this Court is not inclined to disturb the service of the third respondent.

4. The contention of the petitioner that before removing him from service the respondents have not granted any opportunity. The contention of the respondents is that the petitioner was working as daily wage and therefore, prior notice is not necessary. This Court is not able to accept the contention of the respondents. Even for daily wages employees there should be proper notice before their services are terminated, since the same would affect their



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liveliness. It is a settled proposition that whenever there are civil consequences to the employee, then the employer should issue proper notice and then only the employee can be dismissed from service. Since the petitioner was not granted adequate opportunity before removing him from service, therefore, this Court is inclined to grant compensation to the petitioner to the tune of Rs.30,000/- (Rupees Thirty Thousand only). Hence, the second respondent is directed to pay Rs.30,000/- (Rupees Thirty Thousand only) to the petitioner. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.03.2023

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



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S.SRIMATHY, J.

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