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W.P.No.11816 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2024

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THE HONOURABLE MR.JUSTICE **D. BHARATHA CHAKRAVARTHY**

W.P.No.11816 of 2024

K.Kulandhaivel

... Petitioner

-Vs-

1.The Commissioner,
Office of Commissioner,
Hindu Religious & Charitable Endowments Department,
119, Uthamar Ganthi Road,
Chennai – 600 034.

2.The Joint Commissioner,
Office of the Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Kottai Mariamman Temple,
Salem – 636 001.

3.The Executive Officer,
Arulmigu Prasanna Najundeswarar,
Edappadi Town and Taluk,
Salem District – 637 101.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 3rd respondent to disperse the arrear amount on the basis of Notice bearing Na.Ka.No.50791/2018/H2 issued by the 1st respondent from the date of above mentioned Notice by considering the petitioner's representation dated 07.03.2024.



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For Petitioner : Mr.K.Rahul

For Respondents : Mr.S.Ravichandran
Additional Government Pleader

ORDER

The grievance of the petitioner is that the petitioner is working as night watchman in Arulmigu Prasanna Najundeswarar Temple in Edapadi continuously from the year 08.10.1998. The petitioner has thus put in more than 25 years of service. Till date, he is kept only on daily wage basis. The petitioner has been praying for regularization of his service.

2. When the matter came up for hearing, learned Special Government Pleader would place on record the written instructions. It can be seen from the written instructions, that the respondents admit that the petitioner has been continuously working as night watchman on daily wage basis.

3. It is the case of the respondents is that there was no sanctioned post with reference to the particular temple. By the proceedings dated 18.02.2018, post has now been created. Thereafter, the Government has also passed an G.O.Ms.No.121 dated 18.10.2021, whereby, the Government has granted permission to the Department to appoint those employees who have been



working on temporary basis for a period of more than five years on regular basis. Therefore, it can be seen that the petitioner is very much eligible to be considered as against the post sanctioned with effect from 18.02.2018. It can be further seen that the Executive Officer has also forwarded a proposal on 24.12.2021 and the same is also pending.

4. Further upon perusing the papers filed along with the writ petition, it can be seen that as early as on 07.03.2018, immediately after the creation of the post, Joint Commissioner, Salem, has after duly considering the resolution of temple etc., has already forwarded a proposal which clearly mentions that the petitioner Kulandhaivel, is functioning as night watchman on daily wage basis from the year 1997 onwards and therefore has held that these persons can be appointed regularly in the newly created post.

5. In that view of the matter, considering the fact that the petitioner has put in service more than 25 years and the respondents themselves have created a regular post with effect from 18.02.2018 and the Government itself having permitted the respondents to fill up the said post from among the daily rated employees who have put in more than 5 years of service and the Joint Commissioner himself has considered the matter in detail and approved the



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proposal as early as 07.03.2018, this Court sees that nothing but an administrative delay which is happening in the matter and there is no impediment whatsoever in regularizing the service of the petitioner.

6. In view thereof, this Writ Petition is allowed on the following terms:-

(i) The petitioner's service is directed to be regularized in the regularly created post of night watchman with effect from 18.02.2018, with all attendant and consequential monetary and service benefits and

(ii) the respondents shall complete the above exercise for regularizing the petitioner and granting all the benefits, within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

26.04.2024

Index : Yes

Speaking order: Yes

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D. BHARATHA CHAKRAVARTHY, J.

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