



W.P.No.32989 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.06.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.32989 of 2016

&

W.M.P.No. 28504 of 2016

1.M.Sarathamani

2.R.Vijayakumar

3.P.Murugesan

4.S.Kalamani

5.G.Palanisamy

6.S.Gunasekaran

7.M.Rajendran

8.P.Annasami

9.H.Mani

10.K.Manoj

...petitioners



W.P.No.32989 of 2010

Vs.

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1.The Government of Tamil Nadu, rep. by its Secretary
HR & CE Department, Fort St. George,
Chennai – 600 009

2.The Commissioner,
H.R. & C.E. Administrative Dept.,
Nungambakkam, Chennai – 600 034.

3.The Joint Commissioner,
H.R. & C.E. Administrative Dept,
Dr. Balasundaram Road,
Coimbatore.

4.The Executive Officer,
Arulmighu Avinashilingeswarar Thirukkcoil,
Avinashi,Tiruppur 641 654.

5.The Fit Person / Board of Trustees,
Arulmighu Avinashilingeswarar Thirukkcoil,
Avinashi,Tiruppur 641 654.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ in the nature of Writ of Certiorari calling for the records of the 2nd respondent dated 07.09.2015 made in suo motu revision No.1/2015/D2 and quash the same.



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For petitioners : Mrs. G.Thilakavathi
Senior Counsel
for Mr. R.Gopinath

For Respondents : Mr. S.Ravichandran
1 to 3 Additional Government Pleader
(HR & CE)

For Respondents: No Appearance.
4 & 5

ORDER

The Writ Petition has been filed challenging the order passed in suo motu revision made by the 2nd respondent and to quash the same. The brief facts which has preceeded the filing of the above Writ Petition are as follows.



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2. The petitioners have been appointed in the 5th respondent Temple by the proposal of its Board of Trustees. The 4th respondent who is the competent authority for approving the appointment in the approved schedule of post had accorded approval and the petitioners have also been receiving their pay in the scale that enures to the post. In the year 2012, there was a proposal to revise the pay structure and the proposal was submitted to the 3rd respondent by resolution of the 5th respondent and the 3rd respondent had also approved the same, whereby the scale of pay had been revised.

3. Thereafter, the 2nd respondent had suo motu initiated revision under Section 21 of the HR & CE Act and revised the order of the 3rd respondent approving the revised scale of pay. Not stopping with this the 2nd respondent had also ordered recovery of the amount paid in excess and the same is challenged in the proceedings.



4. The 2nd respondent had proceeded on the premise that the 3rd respondent / Joint Commissioner did not have the authority to revise the pay structure and grant regular time scale of pay. However, a perusal of Rule 14 framed under Section 116 (2) (xxiii) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, clearly indicates that the Joint Commissioner has a power to recommend the appointment, to confirm the appointment and the scale of pay and the findings otherwise of the 2nd respondent is erroneous.

5. Further, the board of trustees of the temple has taken into consideration all the parameters and recommended the appointment of the petitioners and others into sanctioned post and for a regular time scale of pay. The 3rd respondent has approved the above as per the powers granted to him under the Act.

6. In the Writ Petition arising out of similar issue, the said Writ Petitions were allowed and the impugned orders were set aside.



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Considering the above facts and circumstances, the Writ Petition is allowed and the impugned order is quashed. Consequently, the connected Miscellaneous Petition is closed. No costs.

7. It is needless to state that the amounts recovered from the petitioners on the basis of the impugned order shall be refunded to them within a period of 8 weeks from the date of receipt of a copy of this order.

10.06.2024

Index : Yes/No
Internet : Yes/No
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