



W.P(MD)No.23630 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P(MD)No.23630 of 2022

and

W.M.P(MD)Nos.17703 & 17704 of 2022

S.Meena

... Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious Charitable Endowments Department,
119, Uthamar Gandhi Road,
Thousand Lights West, Nungambakkam,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious Charitable Endowments Department,
Tuticorin.
- 3.The Deputy Commissioner / Executive Officer,
Arulmighu Sankaranarayanawamy Temple,
Sankaranvoil,
Tenkasi District.
- 4.The Fit Person / Thakkar,
Arulmighu Sankaranarayanawamy Temple,
Sankarankovil,
Tenkasi District.
- 5.Shenbagavalli



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6.Arulmighu Kallalagar Thirukovil,
Alagar Kovil,
Melur Taluk,
Madurai District.

... Respondents

*(R-6 is suo motu impleaded vide Court order, dated
30.10.2024 in WP(MD)No.23630 of 2022)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the impugned proceedings of the first respondent herein in his proceedings in Pa.Mu.No.87182/2021/Z3, dated 12.09.2022 communicated to the third respondent and pass such further or other suitable order as this Court.

For Petitioner : Mr.V.Meenakshisundaram

For R-1, R-2 & R-4: Mr.M.Senthil Ayyanar
Government Advocate

For R-3 : Mr.V.R.Shanmuganathan
Standing Counsel

For R-6 : Mr.S.Manohar

ORDER

The present writ petition is filed challenging the order passed by the first respondent, dated 12.09.2022 appointing the fifth respondent to the post of Junior Assistant on compassionate ground appointment.



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2. The case of the petitioner is that she joined the service of the third respondent Temple as "Para" service employee on consolidated pay basis based on the orders of first respondent, dated 10.11.2010 in pursuant to the death of her husband Paul Pandian, who died while he was in service of the third respondent Temple leaving behind two minor sons and his aged old widow mother.

3. Thereafter, by proceedings, dated 16.12.2015 of the first respondent, the petitioner was brought to regular time scale and was working as such without any black mark or blemish, with utmost seniority and honesty. The petitioner has passed SSLC even when she was appointed as "Para" she was eligible to be appointed as Junior Assistant in the Temple but was appointed as "Para" only. Though the petitioner's service was termed to be one of "Para", she was assigned with a duty of Junior Assistant and other post, namely, Ticket Seller, Annadhana incharge, Despatch Clerk, Record Clerk, Accounts Clerk etc., and was also repeatedly requesting the respondents to post her as a Junior Assistant.



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4. The learned Counsel for the petitioner submits that the G.O(Ms)No. 1499 [Labour and Employment Department], dated 03.08.1989 provides that persons appointed on compassionate ground if they are qualified to be appointed as Junior Assistants, they should be appointed as Junior Assistants instead of post which they are originally appointed and based on the above said G.O, this Court has passed several orders and the request of the petitioner for appointing her as a Junior Assistant based on the G.O is well as well as Court orders and till date, there is no consideration of the request by the respondents.

5. The learned Counsel for the petitioner would further submit that the petitioner was working in the third respondent Temple for past 11 years even if eligible persons were considered to be promotion to the post of Junior Assistants and the petitioner would have been promoted to the said post on account of her length of service but that was also not done by the third respondent.

6. The learned Counsel for the petitioner would further submit that the third respondent is attempting to fill up the post of Junior Assistant available in the third respondent Temple by compassionate appointment as narrated *infra*.



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One Lakshminarayanan, who was working as Parijaragar in Arulmigu Palvannanatha Samy Thirukovil, Karivalamvanthanallur and he died on 09.04.2021 while he was in service and his daughter one Shenbagavalli, who is the fifth respondent has requested for compassionate ground appointment and she is a married daughter living with her husband, who is working in a Car Company. As per 2015 Service Rules for Temple Employees, compassionate appointment could be given to the un-married daughter or married women or daughter, who is a widow or deserted by her husband.

7. He further submitted that she is from the Sub Temple whose establishment is different from establishment of Main Temple. Therefore, she could be accommodated only in Sub Temple and not in the Main Temple. The son and another employee of the Main Temple by name Ganesan working as Ulavaram, who also died during service in March 2021 requested for compassionate appointment. Therefore, he have to be considered for Main Temple in anyone of the lower post available. Further the said Shenbagavalli, the fifth respondent herein could be accommodated in any of the lower post and she cannot be accommodated directly as a Junior Assistant to the advantage of the persons working in the Temple for years together.



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8. The learned Counsel for the petitioner would further submit that the request of the petitioner to post her Junior Assistant is pending for years together on the one side and though she is eligible but steps to appoint new person directly as Junior Assistant is done over looking all the working employees.

9. The learned Counsel for the petitioner would further submit that the petitioner is eligible to be appointed as Junior Assistant and in the New Service Rules, the scale of pay for "Para" Office Assistant in category 11 are one and the same as per G.O(Ms)No.350 and the Office Assistant is shown as feeder category for the post of Junior Assistant. Hence, the petitioner is eligible to be promoted as Junior Assistant in the third respondent Temple and having worked for 11 years in the third respondent Temple and have all along been assigned with the duty of Junior Assistant. One post of Junior Assistant is available in the third respondent Temple and it is vacant. Hence, the petitioner submitted a representation, dated 09.09.2021 to the respondents to consider her name for posting as Junior Assistant in the third respondent Temple. One employee, who is working as "Para" is also eligible. Since he is facing charges he could not be posted and the petitioner is the next in the line of seniority.



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Hence, aggrieved by the order passed by the first respondent, dated 12.09.2022, the petitioner has come forward with the present writ petition.

10. The learned Counsel for the petitioner would further submit that at the time of admission of this writ petition, this Court was pleased to grant an order of interim stay and posted the matter along with W.P(MD)No.23015 of 2021 and the stay is still in operation as on date.

11. The learned Counsel appearing for the petitioner submits there is vacancy at Arulmigu Kallalagar Thirukovil, wherein the petitioner can be accommodated in the post of Junior Assistant after the order of promotion is issued by the third respondent and subsequently, transferred to Alagar Kovil.

12. The learned Counsel for the petitioner would further submit that the petitioner is willing to forgo the monetary benefits and wanted only seniority on par with the fifth respondent, who was appointed on 20.09.2022.

13. The learned Government Advocate appearing for the respondents 1, 2 and 4 submit that in regard to the Category III post of Junior Assistant the method of appointment is extracted as follows:



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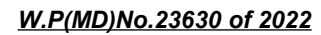
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Category (1)	Method of Appointment (2)	Qualifications (3)
Category-III (1) Junior Assistants (2) Clerk (3) Collection Clerk (4) Suit Clerk	By promotion from among the holders of the post of Office Assistant; or Record Clerk; or Salesman (Ticket).	A pass in SSLC or its equivalent qualification recognized by the Government.

He further submitted that the appointing authority is the third respondent Temple and not the first respondent.

14. Heard both sides and perused the material on record.

15. The learned Counsel appearing for the third respondent submitted that the fifth respondent was appointed on 20.09.2022 before the interim order of this Court granted on 13.10.2022 and the fifth respondent also joined duty on 20.09.2022. The competent authority to promote the petitioner is the third respondent Temple and once the promotion is granted, the proposal will be sent to the first respondent for approval of the said appointment. The transfer order transferring the petitioner from the third respondent Temple to Arulmigu Kallalagar Thirukovil shall be issued by the first respondent.



17. The learned Counsel appearing for the third respondent Temple would rely category VI and the same is extracted hereunder:

<https://www.mhc.tn.gov.in/judis>
9/15



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Hence, the petitioner is eligible for appointment as Junior Assistant.

18. The learned Counsel appearing for the sixth respondent, who has been *suo motu* impleaded by this Court in view of the submission made by the learned Counsel appearing for the petitioner stating that there is vacancy available in the post of Junior Assistant at that Temple and the petitioner after promotion as Junior Assistant by the third respondent may be accommodated in the sixth respondent Temple.

19. The learned Counsel appearing for the newly impleaded sixth respondent on written instructions, submitted that there are total 16 post of Junior Assistant, out of which there are only 5 persons working as Junior Assistants and 11 post of Junior Assistants are vacant as on date. The written instruction vide ந.க.எண்.2017/2024/அ5இ dated 24.10.2024, is extracted hereunder:



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தமிழக அரசு
அருள்மிகு கர்ளாஷர் திருக்கோயில்,
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அனுப்பி தருதல்.

க.செல்வகுமாரன், எம்.ஏ., பி.எல்.,

இணை ஆணையர்,

தூணை ஆணையர்/செயல் அறியலர் (க.பெர).

அருள்மிகு கர்ளாஷர் திருக்கோயில்,

அழகர்கோயில்.

பெற்றார்.

மிரு. அ. ச. ம. கோனார்.

உயர்நீதிமன்ற வழக்கறிஞர்,

10, கங்கா நகர் தெரு,

சின்னமொக்கித்தான், மதுரை - 625 002.

நா.க.எண்.2017/2024/அ15

நா.க.24.10.2024

அன்பார்,

மேலும், பணிபுரியு - திருக்கோயிலில் காண்பத உடைய இயாதினை உதவிபாளர் பணிபுரிந்தில் விபரம் தெரிவித்தல் - அருள்மிகு கர்ளாஷர் திருக்கோயில் - அழகர்கோயில் - இலாபமாக.

பார்க்கு திரு. அ. ச. ம. கோனார், உயர்நீதிமன்ற வழக்கறிஞர், அதுகாண் தொலைபேசி செய்தி நாள். 24.10.2024

---(அ15)---

பார்க்குபில் காணும் தக்காது அதுகாண் தொலைபேசி குறிப்பில், இத்திருக்கோயிலில் தற்போத காரியமாக உள்ள இயாதினை உதவிபாளர் பணிபுரிந்தில் விபரம் தெரிவிக்க கோர் புகையாளப்பட்டி உள்ளது.

இத்திருக்கோயிலில் அங்கீகரிக்கப்பட்ட பணிபாளர் பணிபுரிந்தே பட்டியலில் இப்பெற்றாள்ள இயாதினை உதவிபாளர் பணிபுரிந்தும் பெறத்தம் 15 ஆகும். இவ்வுடைய இயாதினை உதவிபாளர் பணிபுரிந்தில் தற்போதம் 5 பணிபாளர்கள் பணிபுரிந்து வருகின்றனர். 11 இயாதினை உதவிபாளர் பணிபுரிந்த காரியமாகவுள்ளது என்ற விபரம் தெரிவித்தல் கொள்ளப்படுகிறது.

(தலை) க.செல்வகுமாரன்

இணை ஆணையர்

தூணை ஆணையர்/செயல் அறியலர் (க.பெர)

/உணைய நாள்/அ.க.எண்.2024/

24.10.2024

24/10/24



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20. In view of the above submissions made by the learned Counsels appearing for the petitioner as well as the respondents, this Court is inclined to issue the following directions:

1) The third respondent Temple is directed to promote the petitioner as Junior Assistant, within a period of three weeks from the date of receipt of a copy of this order.

2) The proposal to approve the appointment of the petitioner to the post of Junior Assistant shall be forwarded to the first respondent, within a period of three weeks.

3) The first respondent on receipt of the proposal sent by the third respondent Temple, the same shall be considered, within a period of three weeks thereof.

4) The third respondent Temple shall forward the proposal for transfer of the petitioner to the Arulmigu Kallalagar Thirukovil, Melur Taluk, Madurai District and on receipt the first respondent shall consider the same within a period of three weeks.

5) In regard to fixing the seniority of the petitioner on par with the fifth respondent, who was appointed as Junior Assistant on 20.09.2022, the same shall be considered by the first respondent. The entire above exercise shall be



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completed within a period of three months from the date of receipt of a copy of this order.

21. This writ petition stands disposed of with the above observations and directions. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

30.10.2024

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

To

- 1.The Commissioner,
Hindu Religious Charitable Endowments Department,
119, Uthamar Gandhi Road,
Thousand Lights West, Nungambakkam,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious Charitable Endowments Department,
Tuticorin.
- 3.The Deputy Commissioner / Executive Officer,
Arulmighu Sankaranarayanawamy Temple,
Sankaranvoil,
Tenkasi District.



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4.The Fit Person / Thakkar,
Arulmighu Sankaranarayanaswamy Temple,
Sankarankovil,
Tenkasi District.

5.Arulmighu Kallalagar Thirukovil,
Alagar Kovil,
Melur Taluk,
Madurai District.



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J.SATHYA NARAYANA PRASAD, J.

BTR

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