
(2010) 04 MAD CK 0040
In the Madras High Court
Case No : Writ Petition No. 749 of 2004

P. Arunachalam

APPELLANT

Vs

Arulthiru Devi Karumari Amman

RESPONDENT

Date of Decision : 20-04-2010

Acts Referred:

Citation : (2010) 04 MAD CK 0040

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : V. Selvaraj, for the Appellant; B. Balachandar, for Ashok Menon, for R1 and T. Chandrasekaran, Special Government Pleader for R2, for the Respondent

Final Decision : Allowed

Judgement

T. Raja, J.—The present writ petition has been filed by P. Arunachalam, seeking issuance of a Writ of Certiorarified Mandamus, to call for

the records relating to the impugned proceedings of the 2nd respondent/the Commissioner, H.R. & C.E. Department in R.P. No. 115/2003 D2

dated 15.10.2003 to quash the same and to direct the respondents to reinstate the petitioner in service as Plumber with retrospective benefits.

2. The petitioner was appointed as a Plumber in the 1st respondent, Arulthiru Devi Karumari Amman Thirukoil, Thiruverkadu, Chennai by

proceedings of the 1st respondent dated 22.04.1980. In view of his appointment, the petitioner joined duty on 25.04.1980. After successful

completion of his one year of service, his service was also regularised by order dated 05.06.1981. Thereafter, in the years 1982, 1983 and 1984,

the petitioner was also given annual increments. The petitioner was even made a permanent employee of the 1st respondent temple. All of a

sudden, his service was terminated by the 1st respondent by proceedings dated 30.07.1984. Aggrieved by the order of termination, the petitioner

filed an appeal before the 2nd respondent/the Commissioner, H.R. & C.E. Department on 03.08.1984. The said appeal was not disposed of.

However, by proceedings passed by the 1st respondent dated 01.10.1988, the petitioner was re-appointed as Peon on the very same day.

Subsequently, the petitioner filed writ petition in W.P. No. 8756 of 1989 before this Court contending that the appeal filed by the petitioner was

not disposed of by the 2nd respondent and that the order of termination was also illegal.

3. This Court passed an order dated 17.12.1995 in W.P. No. 8756 of 1989, directing the 2nd respondent to dispose of the petitioner's appeal

within a period of three months. In view of the order passed by this Court, the 2nd respondent, by order dated 08.03.1996, stated that the

petitioner was dismissed from service for dereliction of duty and, therefore, he could not be reinstated as Plumber.

4. Challenging the above said order the petitioner filed another writ petition in W.P. No. 10239 of 1996, before this Court and this Court allowed

the Writ Petition and directed the 2nd respondent to dispose of the petitioner's appeal on merits.

5. Pursuant to the orders passed by this Court, the 2nd respondent passed the impugned order dated 15.10.2003 rejecting the petitioner's appeal.

The impugned order rejecting the petitioner's appeal is on the ground that the petitioner did not possess I.T.I. Certificate which, according to the

respondent, was the requisite qualification for appointment as a Plumber.

6. The learned Counsel appearing for the petitioner submits that at the time of joining the service of the 1st respondent temple, admittedly, there

was no rule contemplating the possession of any requisite qualification like the one now stipulated for by the respondents. Therefore, it was argued

that when the petitioner was originally appointed in the service of the 1st respondent temple by proceedings dated 22.04.1990, the 1st respondent

did not insist upon the petitioner to have any educational qualification. Further, even after completion of his one year service in the 1st respondent

temple, the service of the petitioner was also regularised by order dated 05.06.1981. Once an employee is found suitable and subsequently his

services are regularised by the employer, it is not open to the same employer to terminate the service of the petitioner on the ground that he did not

possess the requisite qualification namely, I.T.I. at the time of his original appointment. The learned Counsel appearing for the petitioner further

contended that even today, there is no rule prescribing minimum educational qualification to be possessed for the post of Plumber. On the basis of

the above said arguments, the learned Counsel appearing for the petitioner prays this Court to set aside the impugned order.

7. In reply, the learned Counsel appearing for the respondents submits that the petitioner misbehaved with many of the devotees coming to the

temple and further he was not competent to handle the work of Plumber. In view of his incompetency, he went on spoiling several costly pumps

installed in the 1st respondent temple which have been commissioned to help the devotees coming to the 1st respondent temple. In view of his total

incompetency the petitioner was asked to produce certificates of his educational qualification namely, I.T.I. certificate so as to continue as a

Plumber in the 1st respondent temple. When the petitioner was not able to produce his educational qualification, showing competency, the

respondents thought it fit to terminate the service of the petitioner. Therefore, it was prayed that this Court should not interfere with the impugned

order.

8. Heard the learned Counsel on both sides.

9. Admittedly, the learned Counsel appearing for the respondents also has admitted that there is no rule communicated by the 1st respondent,

prescribing requisite educational qualification for the post of Plumber. When it is the admitted fact that there is no rule requiring the petitioner to

possess the I.T.I. certificate as basic requisite qualification to continue as a Plumber, the respondents ought not to have terminated the service of

the petitioner on the ground that the petitioner does not possess the requisite qualification.

10. It is also pertinent to keep in mind that the petitioner was appointed on 22.04.1980 as a Plumber in the 1st respondent's temple. After

appointing the petitioner in the 1st respondent's temple in the year 1980, having seen that his probation was declared on 25.04.1981, the 1st

respondent thought it fit to regularise the service of the petitioner. Accordingly,

by an order dated 05.06.1981, the service of the petitioner in the post of Plumber was regularised. Having appointed and subsequently, regularised the service of the petitioner in the post of Plumber, when there is no written bye-law or rule envisaging the minimum requisite qualification namely, I.T.I. to be possessed by the petitioner, it is absolutely beyond the authority of the 1st respondent to terminate the service of the petitioner from the post of Plumber. Therefore, the order of termination passed by the 1st respondent is unsustainable.

Accordingly, this Court finds no reason to uphold the impugned order. Therefore, the impugned order is set aside and the Writ Petition is allowed.

No costs.