

(2003) 09 MAD CK 0084

In the Madras High Court

Case No : Writ Petition No"s. 14039 to 14045 of 2001

V. Murugan and Others

APPELLANT

Vs

The Commissioner, Hindu Religious and Charitable
Endowments, The Joint Commissioner, Hindu Religious and
Charitable Endowments and The Executive Officer/Asst.
Commissioner

RESPONDENT

Date of Decision : 11-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 09 MAD CK 0084

Hon'ble Judges : A.K. Rajan, J

Bench : Single Bench

Advocate : G. Thangapandian, for the Appellant; D. Nandakumar, for RR1 and
R2 and P. Gopalan, for R3, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Rajan, J.—The above writ petitions are filed to issue writ of Certiorarified Mandamus to call for the records on the file of the third

respondent in his proceedings in Na.Ka. No.1157/98-A2 dated 18.05.2001, quash the same and direct the respondents to regularise the service

of the petitioners.

2. The petitioners were appointed as Watchman, Waterman, Sweepers etc. by the Board of Trustees on daily wages; by an order dated

29.11.1999 their wages were fixed at Rs.25.00 per month; they continued to work for more than three years to the satisfaction of the trustees and

other officers, worshipers without any complaint whatsoever; and there was no brake of service. The petitioners made representation to the

respondents to confirm and regularise them in the services; but on 18.05.2001,

when the petitioners went for work as usual, they were informed that they cannot work any more as their services were terminated by proceedings dated 18.05.2001. The petitioners are entitled to the benefits conferred under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (Tamil Nadu Act 46 of 1981) (hereinafter referred to as "the Act"). Therefore, the impugned order is challenged in these writ petitions.

3. Mr. G. Thangapandian, learned counsel appearing for the petitioners submitted that these petitioners were working for more than 3 years and they have worked more than 240 days within a continuous period of one year and their services are entitled to be regularised. On the other hand, their services were terminated, on the sole ground that there was audit objection for having excess number of employees in the Board of Trust.

4. Learned counsel relied on the judgment of the Supreme Court in Union of India and others vs. Mohan Pal etc.etc.) 2002 (3)Supreme 602, whereby a scheme was framed for Government Employees under which those persons who worked more than 240 days were to be made permanent. In this respect, there would not be any difficulty for this Court to accept the contentions of learned counsel for the petitioners, if the petitioners come under the purview of Industrial Disputes Act and they could be considered as "industrial employees".

5. But the employer in the present case is Thiruparankundram Temple. By no stretch of imagination, the temple would come within the definition of industry" under Industrial Disputes Act and hence, the judgment relied upon by the counsel for the petitioners is not applicable to the present case.

Therefore, the benefits conferred under the Act is not applicable to the petitioners. Therefore, this Court has no other option except to dismiss the writ petition on the ground that the petitioners are not entitled to get the benefits under the Act.

6. Learned counsel for the petitioners submitted that the petitioners were working in the temple for more than 3 to 4 years with unblemish service.

Considering their unblemish service, the Joint Commissioner, in fact, recommended for the regularisation of the services of the petitioners. This

Court is of the view that the Commissioner or Temple Authorities may consider the case of the petitioners and may give preference to the

petitioners whenever vacancies arise in this temple.
With this observation, the writ petitions are dismissed.