

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No 4581 of 2019  
(Arising out of SLP(C) No 32360 of 2018)**

**K.A. Velmurugan**

**.... Appellant(s)**

**Versus**

**The Govt of Tamil Nadu and Ors.**

**....Respondent(s)**

**ORDER**

Leave granted.

The dispute in the present case relates to a post by the name of Nathaswara Vidhwan. The appellant was appointed to the post on 6 May 2017 at the Arulmighu Subramaniaswamy Thirukoil, Thirupparangundram, Madurai.

It is not in dispute that the appointment of the appellant was made after following the due process of selection and pursuant to the directions of the Commissioner, Hindu Religious Charitable and Endowment, Chennai. However, there was a clause in the letter of appointment, which read as follows:

“i) The appointment is subject to outcome of judgment of Hon'ble High Court at Madras Madurai Bench in W.P. No.5182 of 2014.”

The above clause was introduced because in the meantime, a writ petition was filed before the High Court by the fourth respondent claiming compassionate appointment to the post. The father of the fourth respondent had been holding the post at the temple as a Thavil Vidhwan.

A learned Single Judge of the High Court, by an order dated 28 June 2017, allowed the writ petition filed by the fourth respondent. In a writ appeal by the State, the judgment of the learned Single Judge was affirmed. The Division Bench held that though the fourth respondent was not an eighth standard passed candidate as required under the recruitment rules, he fulfilled all the other qualifications in regard to proficiency in the art of playing the Nathaswaram. The High Court was of the view that the post requires proficiency in the Nathaswaram and since the post was vacant, the fourth respondent should be appointed.

The appellant was not a party to the proceedings before the High court. As a result of the order of the High Court, the services of the appellant has been dispensed with by an order of August 2018.

The grievance of the appellant is thus:

- (i) The appellant had already been appointed to the post and that his termination, in order to accommodate the fourth respondent, who did not fulfill the educational qualification of passing the eighth standard was improper; and
- (ii) The appellant in any event was not a party to the proceedings instituted by the fourth respondent; and
- (iii) The basis of the order that there was a vacant post in the temple is incorrect since the appellant had already been appointed.

Admittedly, the appellant was appointed to the post, subject to the specific condition that the appointment would abide by the result of the writ petition, which was filed by the fourth respondent. The appellant was

aware of the condition and accepted it.

Insofar as the fourth respondent is concerned, the High Court was of the view that proficiency in the trade is of crucial significance. Save and except for the educational qualification, the fourth respondent fulfilled all other requirements. As a matter of fact, the real purpose of making an appointment to the post was to ensure that the temple services are duly facilitated by appointing a person with the requisite proficiency.

We are now confronted with a situation that the fourth respondent is in service pursuant to the appointment made on a compassionate basis. At the same time, we see the equities in favour of the appellant, who was appointed after following the due process of law. To balance the equities we are not disturbing the impugned judgment and order of the High Court pursuant to which the fourth respondent was appointed. However, we issue a direction to the effect that the State government shall within a period of two months from the receipt of a certified copy of this order consider and decide whether the appellant can be accommodated in any other suitable post, if a vacant post is available.

We would expect the State government to deal with the issue with empathy, having regard to the peculiar facts and circumstances, which we have noted above.

The appeal is accordingly disposed of. There shall be no order as to costs.

.....J.  
[Dr Dhananjaya Y Chandrachud]

.....J.  
[Hemant Gupta]

New Delhi;  
May 03, 2019

ITEM NO.51

COURT NO.11

SECTION XII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

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Versus

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....Respondent(s)

(WITH APPLN.(S) FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, EXEMPTION FROM FILING O.T. AND PERMISSION TO FILE ADDITIONAL DOCUMENTS)

Date : 03-05-2019 This appeal was called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s) Ms. V. Mohana, Sr. Adv.  
Mr. B. Raghunatha, Adv.  
Kashvi Dutta, Adv.  
Mr. Vijay Kumar, AOR  
Ms. Nikita Capoor, Adv.  
Ms. Ankita Sharma, Adv.

For Respondent(s) Mr. V. Balachandran, Adv.  
Mr. Siddharth Naidu, Adv.  
for M/S. KSN & Co.  
  
Mr. B. Vinodh Kanna, Adv.  
  
Mr. P. Soma Sundaram, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order. There shall be no order as to costs.

Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)  
AR-CUM-PS

(SAROJ KUMARI GAUR)  
COURT MASTER

(Signed order is placed on the file)