

**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

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**WRIT PETITION No.17832 of 2012**

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**Date: 12.11.2015**

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**Between:**

T.Ramesh Reddy, s/o. late Shiva Shankar Reddy,  
Aged 36 years, Occu: Junior Assistant, O/o. Sri  
Mallikarjuna Swamy Kamakshi Tayee Ammavari  
Temple, Zonnawada, Nellore District.

.....Petitioner

And

The Commissioner of Endowments, Endowments  
Department, Anndhra Pradesh, Tilak Road,  
Hyderabad and another.

.....Respondents

The Court made the following:

**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

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**ORDER:**

Petitioner while working in Sri Mallikarjuna Swamy Kamakshi Tayee Ammavari Temple, Zonnawada, Nellore District, by proceeding dated 29.01.2008, was transferred to Vinjamur Group Temple, Vinujamur, Nellore District. Challenging the said transfer, petitioner filed W.P.No.2436 of 2008. This Court by order dated 07.02.2008 made in W.P.M.P.No.3137 of 2008 directed continuation of the petitioner

as Junior Assistant in Sri Mallikarjuna Swamy Kamakshi Tayee Ammavari Temple, Zonnawada. According to the petitioner said order is not complied with and he was not put back to work in the said temple. It appears that during pendency of this writ petition, by proceedings dated 13.06.2008, petitioner was transferred to Sri Anjaneya Swamy Temple, Rajiv Street, Nellore. Challenging the said transfer, petitioner filed W.P.No.15906 of 2008. This Court by order dated 24.07.2008, disposed of the said writ petition upholding the order of transfer. However, by proceedings dated 22.07.2008, the Commissioner of Endowments, Endowments Department cancelled the orders of transfer dated 13.06.2008. Accordingly, petitioner was admitted to duty in Mallikarjuna Swamy temple on 04.11.2008. After joining in Mallikarjuna Swamy Temple, petitioner started claiming to treat the period of his absence from 01.02.2008 to 03.11.2008 as duty period. The 2<sup>nd</sup> respondent vide his proceedings dated 03.3.2012, rejected the request of the petitioner to grant pay and allowance for his absence period. Aggrieved thereby, this writ petition is filed.

2. Heard learned counsel for petitioner as well as counsel for respondents.

3. Learned counsel for petitioner submits that on account of interim order passed by this Court in W.P.No.2436 of 2008, petitioner is deemed to have been in service in Mallikarjuna Swamy Temple and, therefore, he is entitled for payment of pay and allowances. Not admitting the petitioner to duty and not permitting the petitioner to discharge his duties and responsibilities is *ex facie* illegal and, therefore, petitioner is entitled to claim full pay and allowance for the entire period.

4. Learned standing counsel submits that on transfer, petitioner was relieved on 01.02.2008 and, therefore, by the time the interim orders passed on 07.02.2008, he was not working in Mallikarjuna Swamy temple. He further submits that W.P.No.2436 of 2008 was dismissed by order dated 29.08.2008 and, therefore, the earlier interim order passed do not survive and petitioner cannot claim pay and allowances. He, therefore, submits that there is no illegality in the order passed by the 2<sup>nd</sup> respondent. Since petitioner on his own omission did not discharge the duties and responsibilities at the place of posting, he is not entitled to pay and

allowances.

5. As noticed above, the order of transfer dated 29.01.2008 was under challenge in W.P.No.2436 of 2008. According to learned standing counsel for 2<sup>nd</sup> respondent, petitioner was relieved on 01.02.2008 and, therefore, he was not working by 07.02.2008 on which date the interim order was passed. Since the writ petition was dismissed by order dated 29.08.2008, the order of transfer of the petitioner dated 29.01.2008 becomes valid. Though the petitioner challenged subsequent transfer in W.P.No.15906 of 2008, this Court upheld the order of transfer of petitioner dated 13.06.2008. Thus, in terms of the orders of transfer dated 29.01.2008 in the first instance and 13.06.2008 in the second instance, petitioner ought to have joined in the place of posting. Even if petitioner has valid grievance, he could have agitated about his grievance regarding his chances of promotion after joining in the place of posting. Be that as it may, since this Court did not interfere in the two orders of transfer in W.P.No.2436 of 2008 and W.P.No.15906 of 2008, the decision of respondents in not granting pay and allowance for the period of his absence from duty cannot be faulted. Admittedly, petitioner did not work during the relevant period in any of the temples and has joined only on 04.11.2008 after further orders were issued by the Commissioner. In view of the peculiar facts of this case, the absence period cannot be treated as duty period and unless the period is treated as spent on duty employee cannot claim pay and allowance. Thus, I do not see any illegality and irregularity in the order passed by the 2<sup>nd</sup> respondent. In the facts of this case, it has to be assumed that respondent authorities were lenient in not treating the period of absence as break in service. It appears no further adverse decision was taken against the petitioner on his long absence from the duties.

6. Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

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**JUSTICE P.NAVEEN RAO**

Date: 12.11.2015

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**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

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