

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.13658 of 2012

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DATED : 05.11.2015

Between :

V.A.Babu Rao S/o.Late Rama Krishna,
Aged about 42 yrs, Occu : Service,
R/o.Annavaram, East Godavari District.

.. Petitioner

and

The Commissioner,
Endowments Department,
Tilak Road, Hyderabad & another.

.. Respondents

This court made the following :

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ORDER :

While the father of the petitioner was working as Record Assistant, he retired

from service on 13.10.1998 on the ground of medical invalidation. In accordance with the scheme of providing employment to the dependants of the employee who retired from service on medical invalidation ground, petitioner was appointed as Last Grade Servant by proceedings dated 09.12.2004 of the Executive Officer of the 2nd respondent-temple. According to the petitioner, he pursued Bachelor of Degree course and also qualified in Type Writing Higher Grade (English) and Type Writing Lower Grade (Telugu). Petitioner claims that he is fully eligible and qualified to be appointed as Record Assistant. Thus not appointing/promoting the petitioner as Record Assistant or to any other higher post and appointing him as Last Grade Servant is ex-facie illegal and since his request is not considered, this writ petition is filed.

2. Learned counsel for the petitioner contends that petitioner is highly qualified and is eligible to be appointed as Record Assistant. There is no justification in not considering him for promotion or appointment to the post of Record Assistant. Infact there are large number of vacancies of Record Assistants and Junior Assistants in the 2nd respondent temple and considering his qualification and suitability petitioner could have been adjusted in any one of the vacancies.

3. The scheme of (compassionate) appointment on account of retirement of serving employee due to medical invalidation only enables consideration to provide alternative employment to family member of the said employee. No right is vested in the person to seek employment as a matter of course or insist for appointment to higher post merely because he possess the qualifications required to hold higher cadre post. Therefore, no person can insist that he should be appointed in higher cadre. In the instant case, in accordance with terms of the scheme, petitioner was provided employment. It is also relevant to be seen that such appointment was granted to the petitioner in the year 2004 and the petitioner accepted the offer given to him and joined service.

4. Once a person joins service, be it under compassionate appointment scheme or otherwise, his further course in the service depends on the avenues created in the service and the rules/regulations governing the service and promotion to next higher post is ordinarily based on the seniority, eligibility, availability of vacancies in the higher cadre, earmarking vacancies to various lower cadre for such promotions etc. Thus, merely because petitioner possess higher qualification cannot

be a ground to issue direction to grant promotion ignoring the other parameters for such consideration. Based on his qualifications, petitioner cannot claim promotion out of turn ignoring his seniors. Posts of Record Assistant and Junior Assistant are promotional posts to last grade service. Thus, no relief as sought for by the petitioner can be granted. However, it is made clear that if the petitioner is otherwise suitable and eligible and if there is channel for such promotion created and according to his seniority and as per his turn, the petitioner is entitled to be considered for such elevation to the post of Record Assistant or any other post.

5. With the above observations, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

_____**P.NAVEEN RAO,J**

05th November, 2015

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