

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
W.P.No. 30110 OF 2013

ORDER: *(per Hon'ble Sri Justice Ramesh Ranganathan)*

At the request of both the learned Government Pleader for Services – II (A.P.) and Sri M.R.Tagore, learned counsel for the 1st respondent, the Writ Petition is being disposed of at the stage of admission.

The 1st respondent herein was initially appointed as a clerk in a temple and was promoted as Senior Assistant in the year 1988. He was later appointed, by transfer, as Executive Officer Grade – III, by proceedings No.G2/15093/90 dated 11-06-1990. Disciplinary proceedings were initiated against him initially. Various punishments were imposed; and, thereafter, the punishment of compulsory retirement from service was imposed on him. The appeal preferred by him thereagainst resulted in the punishment order being modified from that of compulsory retirement to that of reversion to the post of Senior Assistant. Aggrieved thereby, the petitioner invoked the jurisdiction of the Andhra Pradesh Administrative Tribunal at Hyderabad ("the Tribunal" for short).

By the order under challenge in this Writ Petition, the Tribunal held that the applicant was appointed as Executive Officer, Grade-III, by way of direct recruitment under quota of temple employees; as such, he could not be reverted to a post lower than the post to which he was directly recruited; the order of the Government, reverting him to the post of Senior Assistant, is not legal; and, as the post of Senior Assistant is lower in cadre than that of Executive Officer Grade – III, and as the 1st respondent was directly recruited as Executive Officer Grade – III, the punishment of reversion to the post of Senior Assistant was illegal. Aggrieved thereby, the present Writ Petition.

Learned Government Pleader for Services – II (A.P.) would draw

attention of this Court to the proceedings issued by the Commissioner, Endowments, dated 11-06-1990, whereby, in the exercise of the powers vested under Section 29 (3) of the Andhra Pradesh Charitable and Hindu Religious Institutions and endowments Act, 1987 ("the Act of 1987" for short), certain temple clerks, including the 1st respondent, were temporarily appointed as Executive Officers Grade – III; the 1st respondent invoked the jurisdiction of the Tribunal by way of O.A.No. 6484 of 1999, and the Tribunal recorded his contention that he was appointed as a temple clerk in the year 1975; he was later promoted as Senior Assistant in the year 1988; he was subsequently promoted as Executive Officer Grade – III on 11-06-1995; and the Tribunal had recorded a finding therein that the 1st respondent had been reverted to the original post as temple clerk, and the punishment was not proper because reversion could only be to the next lower stage which was to the post of Senior Assistant.

It does appear from the 1st respondent's own averments in the earlier O.A. that he was initially appointed as temple clerk in 1975; later as Senior Assistant in the year 1988; and only thereafter was he promoted as Executive Officer Grade – III on 11-06-1995. His reversion, from that of Executive Officer Grade – III to that of Senior Assistant, does not appear to be to a post lower than the post to which he was directly recruited which is to the post of temple clerk in the year 1975.

Sri M.R.Tagore, learned counsel for the 1st respondent, would submit that the post of Senior Assistant was abolished and, consequently, the 1st respondent must be treated to have been directly recruited as Executive Officer Grade – III. Learned counsel would submit that this question has not been examined by the Tribunal; and the matter be remanded back to the Tribunal for its consideration afresh.

The finding of the Tribunal, that the 1st respondent was appointed as Executive Officer Grade – III by way of direct recruitment, is not borne out

from the record. Even under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Subordinate Service (Non-Gazetted) Rules, notified in G.O.Ms.No. 262, Revenue (Endowments – I), dated 20-05-2002, the method of appointment for the category of Executive Officer Grade – III, is firstly by direct recruitment and secondly by transfer from different categories. The 1st respondent was, admittedly, not appointed as Executive Officer Grade – III, by direct recruitment. The question whether he must be deemed to have been directly appointed, on the ground that the post of Senior Assistant was abolished, is again a matter for the Tribunal to consider.

The order under challenge in this Writ Petition is set aside and the matter is remanded to the Tribunal to for its consideration afresh and in accordance with law. We have no reason to doubt that the O.A. would be heard, and decided with utmost expedition. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed in consequence. No order as to costs.

RAMESH RANGANATHAN, J.

M.SATYANARAYANA

MURTHY, J.

Date: 19th March, 2015.

JSK