

HON'BLE SRI JUSTICE M.S.K.JAISWAL

W.P.No.24545 of 2005

ORDER:-

The writ petitioner –S.Nagamani, who was the daughter of late S.Srinivasa Rao, was appointed as Last Grade Service on compassionate grounds in the 3rd respondent-temple vide proceedings No.A3/10911/05, dated 30-03-2005 issued from the Office of the Commissioner, Endowments Department, A.P., Hyderabad. Under these proceedings, permission was accorded to the Executive Officer of the subject temple to appoint her on compassionate grounds. However, vide proceedings in Rc.No.A1/3026/02, dated 06-11-2005, the Executive Officer of the 3rd respondent temple issued orders cancelling the appointment of the writ petitioner in the subject temple in view of the Government Order issued in G.O.Ms.No.1422, Revenue (Endowments-I) Department, dated 25-07-2005. On the basis of the said Government Order, the Endowments Commissioner issued the proceedings and on its basis, the appointment of the writ petitioner was terminated. The said Government Order came to be issued since it was noticed that Sri I.Venkateswarlu, IAS, former Commissioner of Endowments issued several irregular orders and consequently the Government cancelled the appointments made during his period.

2. The contention of the writ petitioner is that she was not appointed to the post as a fresh candidate but was given job in view of the death of her father – Srinivasa Rao, who died in harness while working as Tirdambinde Carrier in the 3rd respondent temple. Therefore, it is contended that the proceedings of the Commissioner and the Government Orders cannot be made applicable to the writ petitioner and therefore her removal basing on such orders is illegal.

3. Learned Counsel appearing for the writ petitioner has referred to the decisions of this Court on the same subject wherein it is held that all the appointments made during the time when Sri I.Venkateswarlu was working as Commissioner of Endowments Department cannot be cancelled, but the authorities are required to distinguish each case. The decisions that are referred to by the learned Counsel are in respect of same proceedings of the Commissioner and Government Orders.

4. In W.P.No.20157 of 2005, basing on the same orders and proceedings, the services of one GVLN Siva Kumar Sarma are terminated by the Executive Officer of Sri Yogananda Lakshmi Narasimha Swamy Devasthanam, Vedadari, Jaggayyapet Mandal, Krishna District. By Judgment, dated 13-09-2005, the learned single Judge of this Court observed as under:-

“Certain irregularities have taken place during the tenure of the Commissioner of Endowments, who functioned between 18-01-2005 and 31-05-2005. On noticing the large-scale irregularities, the Government issued various orders either keeping in abeyance or annulling the orders passed by the said Commissioner as well as the consequential orders passed by the religious institutions. The case of the petitioner was brought under the sweep of those orders and his services were dispensed with.”

5. In another decision rendered in W.P.No.8776 of 2011, the services of G.Mohan Rao, the writ petitioner therein, were regularized by Sri Kanaka Mahalakshmi Ammavari Devasthanam, Burujupeta, Visakhapatnam, but subsequently, the said proceedings were cancelled following the proceedings of the Commissioner and the Government Orders. The learned single Judge of this Court directed that the proceedings issued by the Executive Officer of the subject temple are liable to be set aside and the services of the writ petitioners therein are directed to be regularized with all consequential benefits.

6. A Division Bench of this Court in W.A.No.1377 of 2012 also considered the said aspect and by Judgment dated 19.08.2013, observed as under:-

“It is to be seen that the Government issued G.O.Ms.No.1422, Revenue (Endowments.I) Department, dated 25-07-2005, stating that irregular appointments were made by the former Commissioner though there were no sanctioned posts in the cadre strength of the respective institutions, without examining the actual necessity of such posts and without following rule and regulations in vague. The Commissioner was found to have permitted the executive authorities to make contract appointment contrary to ban orders. It is also further stated that the provisions of Section 57(2)(a)(i) of the Act of 1987 with regard to the restriction upon the salaries of the religious and secular establishments or temples not exceeding 30% of its annual income, had been violated. The Government therefore opined that the proceedings issued by the former Commissioner, as detailed in the annexure attached thereto, suffered from irregularity. The Government accordingly set aside the proceedings of the former Commissioner detailed in the annexure attached to the G.O. and cancelled all such irregular appointments ordered by the former Commissioner in various institutions/temples.....”

The Division Bench further observed that when the services of the writ petitioner are not covered under the annexure to the G.O.Ms.No.1422, dated 25-07-2005, the impugned proceedings dated 31-03-2006 and Government Memo dated 29-06-2009, are issued without any application of mind.

7. The above Judgments of this Court are directly applicable to the facts of the case in hand.

8. In the instant case, as already stated, the writ petitioner was appointed on compassionate grounds as a Last Grade Servant. To the Government Order issued in G.O.Ms.No.1422, dated 25-07-2005, a statement is appended setting aside the proceedings of the

Commissioner of Endowments as detailed in the order and cancelling all such irregular appointments ordered by the Commissioner of Endowments in various institutions/temples. The 3rd respondent/temple is Sri Veera Vekata Satyanarayana Swamy Devasthanam, Annavaram. In the Annexure appended to the Government Order, the said temple is found at Sl.No.96 and the posts that are mentioned therein as irregular appointments were '4' posts of Superintendents. In the said Annexure, the post of the Last Grade Service, to which the writ petitioner was appointed is not mentioned. Therefore, the proceedings of the Endowment Commissioner and the Executive Officer of the subject temple cancelling the appointment of the writ petitioner to the post of Last Grade Service in the subject temple is not correct. In that view of the matter, the proceedings impugned are liable to be set aside and the respondents shall continue the petitioner in service with all consequential benefits.

9. In the result, the Writ Petition is allowed. The respondents are directed to continue the petitioner with all consequential benefits from the date of her appointment i.e. from 19.04.2005. In the circumstances, there shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: .12.2015

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