

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITIONS No.11535 & 11546 of 2015

COMMON ORDER:

1. Since the issue involved in both the writ petitions is one and the same, they are heard together and being disposed of by this common order.

2. Both the writ petitions are filed challenging the proceedings viz., 1)D.Dis.No.A4/1639/2015-25, dated 10.3.2015 issued by the 1st respondent to the extent of placing the petitioners on consolidated pay from the time scale and (2) Rc.No.A4/2220/2015, dated 10.3.2015 issued by the 1st respondent and (3) Rc.No.53/2015 dated 15.4.2015 issued by the 2nd respondent.

3. It is stated that the petitioners were appointed as attender, watchman and sweepers in the 2nd respondent-temple. The 1st respondent permitted the 2nd respondent to grant the benefit of PRCs to the petitioners from time to time, and accordingly, the 2nd respondent extended the said benefit also. While so, the 1st respondent issued the proceedings dated 10.3.2015 and refixed the cadre strength of the 2nd respondent-temple. As per the re-fixation of the cadre strength, the time scale to the post of attender, watchman and sweepers, in which the petitioners are working, was cancelled and consolidated pay was fixed. The 1st respondent by proceedings dated 10.3.2015 directed the 2nd respondent to cancel the time scales to the petitioners and recover the amount paid excess so far and remit the same to the temple funds. Thereafter, the 2nd respondent issued show cause notice, dated 8.4.2015 to the petitioners. The petitioners received the said notice on 13.4.2015. But, within the time specified in the notice for submission of explanation, the 2nd respondent vide proceedings dated 15.4.2015 placed the petitioners under the category of consolidated pay. Hence, the petitioners approached this Court.

4. Heard and perused the material available on record.

5. The main grievance of the petitioners is that the show cause notice was issued on 8.4.2015 to them to submit their explanation within seven days from the date of receipt of notice, and they received the notice on 13.4.2014, and within the time specified in the notice for submission of their explanation, the 2nd respondent issued the proceedings dated 15.4.2015 placing them under the category of consolidated pay.

6. From the perusal of the records, it is evident that the notice was issued on 8.4.2015 and the 2nd respondent issued the proceedings on 15.4.2015 placing the petitioners under the category of consolidated pay. It clearly indicates that the 2nd respondent has issued the proceedings dated 15.4.2015 within the time specified in the notice for submission of the explanation of the petitioners and without giving any opportunity to them to submit their explanation. Therefore, the proceedings dated 15.4.2015 are not sustainable.

7. Considering the facts and circumstances of the case, the Writ Petitions are disposed of with the following direction:

“The proceedings in Rc.No.53 of 2015 dated 15.4.2015 issued by the 2nd respondent are set aside. The petitioners are directed to give their explanation to the notice dated 8.4.2015 issued by the 2nd respondent, within a period of 30 (thirty) days from the date of receipt of a copy of this order. On such explanation being filed, the 2nd respondent is directed to consider the same and pass orders afresh, within a period of one month thereafter, in accordance with law.

At this stage, the learned Counsel for the petitioners has sought that liberty may be granted to the petitioners to challenge the proceedings of the 1st respondent.

It is left open to the petitioners to challenge the order passed by the 1st respondent as well as the order that would be passed by the 2nd respondent after receipt of the explanation from the petitioners.”

No order as to costs. Consequently, the miscellaneous petitions pending, if any,

shall stand closed.

RAJA ELANGO, J

Dated:21st April, 2015

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