

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.P. No. 3046 OF 2006

ORDER :

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This writ petition is filed to call for the records relating to G.O.Rt.No.98 on the file of 1st respondent and consequently to quash the impugned G.O.Rt.No.98, dated 09.01.2006.

2. It is the case of the petitioner that the 3rd respondent vide proceedings dated 28.04.2005 appointed the petitioner as Record Assistant in pursuant to permission granted by the 2nd respondent vide proceedings dated 26.04.2005. Accordingly, the petitioner joined duty immediately and discharged his duties to the satisfaction of the authorities without any complaint. Subsequently, the 3rd respondent vide proceedings dated 25.09.2005 allotted the work in the Prasadam Sales Counter. Thereafter, the 1st respondent issued show cause notice dated 11.11.2005 to the petitioner directing him to submit explanation as to why the proceedings of the 2nd respondent dated 26.04.2005 shall not be set aside as the consequential proceedings of the 3rd respondent is not in the interest of the institution. After submission of explanation by the petitioner, the 1st respondent issued proceedings dated 09.01.2006 holding that the proceedings of the 2nd respondent dated 26.04.2005 permitting the Executive Officer to appoint him as Record Assistant suffers from illegality and directed the 3rd respondent to fill up the vacancy after obtaining clearance from the competent authority. Aggrieved by the same, the present writ petition is filed.

3. The 2nd respondent filed counter denying the averments in the affidavit filed in support of the writ petition stating that in pursuant to the proceedings issued by the 2nd respondent dated 26.04.2005, the matter has been placed before the Chairman of the Trust Board on 28.04.2005 and accordingly 3rd respondent issued proceedings dated 28.04.2005 appointing the petitioner as Record Assistant in the existing cadre strength

of the establishment of Sri Talupulamma Ammavari Devasthanam, Lova, East Godavari District in the time scale of pay of Rs.2870-5470. It is stated that the then Commissioner of Endowments Department who worked in the year 2005 and had issued certain orders in respect of promotions, appointments etc., against the interest of the institutions and rules in force and accordingly, the 1st respondent issued orders vide G.O.Ms.No.1422, Revenue (E-1) Department, dated 25.07.2005 for setting aside the proceedings of the then Commissioner and issued show-cause notice to all the individuals who got benefit as per the orders of the then Commissioner. Against the aforesaid orders of the Government, the petitioner filed petition before the Government and requested to continue him as Record Assistant in the subject temple. Thereafter, the petitioner was also issued show-cause notice calling upon him to show-cause as to why the proceedings of the Commissioner of the Endowments for appointment of the post of Record Assistant cannot be cancelled or set aside. The petitioner submitted explanation on 30.11.2005 stating that he is qualified with B.Com Degree and aged about 29 years and he registered his name in the Employment Exchange and that even after 10 years, he did not receive any call from the Employment Exchange. Petitioner came to know about the vacancy of the post of Record Assistant in the 3rd respondent temple, he applied for the same. The Executive Officer of the temple appointed him as Record Assistant in the temple after obtaining orders from the Commissioner of Endowments. After hearing the case on 12.12.2005, the Government passed impugned order setting aside the orders of the Commissioner dated 26.04.2005 stating that the appointment of the petitioner is against Rule 46 in G.O.Ms.No.888, dated 08.12.2000.

4. The 3rd respondent filed counter stating that permission granted to the Executive Officer appointing petitioner is in violation of Rule 46 in G.O.Ms.No.888, Revenue (Endts.) Department, dated 08.12.2000. It is stated that the orders issued by the Commissioner of Endowments Department vide proceedings dated 26.04.2005 granting permission to the Executive Officer of the subject temple are in violation of the provisions of the existing norms and procedure prescribed for direct recruitment under

the statutory rules. The Government after considering the merits of the petition by exercising the powers conferred under Section 93 of the Act 30/87 has made due enquiry into the matter and rightly issued orders in G.O.Rt.No.98, dated 09.01.2006 holding that the proceedings of the 2nd respondent dated 26.04.2005 permitting the Executive Officer to appoint the petitioner as Record Assistant is illegal. It is stated that all the institutions covered under A.P. Endowments Act 30/87 have to follow the statutory rules made in G.O.Ms.No.888, dated 08.12.2000 for making recruitment and appointment of the petitioner is made in violation of Rule 46 of G.O.Ms.No.888. Hence, sought for dismissal of writ petition.

5. Heard learned counsel for the petitioner, learned Government Pleader for Endowments and learned Standing Counsel for the 3rd respondent temple.

6. Learned counsel for the petitioner submits that though the Government issued G.O.Ms.No.1422, dated 25.07.2005 canceling appointment of the petitioner on the ground that the then Commissioner of Endowments issued proceedings against the Rule 46 of the Rules in G.O.Ms.No.1422. But the petitioner's name in proceedings D.Dis.No.B/16574 of 2005 issued by 2nd respondent dated 26.04.2005 does not figure in the annexure to the said G.O, as such, action cannot be initiated on the basis of G.O.Ms.No.1422, dated 25.07.2005. He also submits that in similar circumstances, this Court by order dated 03.08.2012 in W.P.No.8776 of 2011 quashed the impugned proceedings on the ground that the names of the petitioners therein does not figure in the list annexed to G.O.Ms.No.1422, Revenue (Endowments-I) Department dated 25.07.2005. Against the orders in the writ petition, W.A.No.1377 of 2012 is filed, wherein the Division Bench of this Court dismissed the appeal while confirming the order passed by the learned Single Judge.

7. In this case, it is to be seen that entire action has been initiated against the petitioner by issuing show-cause notice basing on G.O.Ms.No.1422, dated 25.07.2005. A perusal of G.O.Ms.No.1422 shows that the names of 39 employees are found in the same, but the name of the

petitioner is not found.

A perusal of the order dated 03.08.2012 in W.P.No.8776 of 2011 goes to show that the issue in the present case is no longer *res integra*.

The proceedings in D.Dis.No.B/16574 of 2005 issued in respect of 3rd respondent, according permission to appoint petitioner, does not find place in annexure to G.O.Ms.No.1422, dated 25.07.2005. The very basis for issuance of impugned order is G.O.Ms.No.1422 Revenue, dated 25.07.2005. According to 1st respondent, proceedings D.Dis.No.B/16574/2005 dated 26.04.2005 are set aside in G.O.Ms.No.1422 but on perusal it is found that the same is not correct. Learned Single Judge in WP No.8776 of 2011 allowed the writ petition by holding that the impugned order in that writ petition does not find place in the G.O.Ms.No.1422.

The said view is affirmed in the writ appeal i.e., W.A.No.1377 of 2012 to which I am a party. It is contended by the learned counsel for the petitioner that the orders in Writ Appeal have become final and same is not disputed by the learned counsel for the respondent. In view of the same, following the ratio laid down in the decision of the learned Single Judge, as affirmed in the Writ Appeal, the writ petition is liable to be allowed.

Accordingly, the writ petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

25.02.2016.
kvs

A.RAJASHEKER REDDY, J

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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