

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.11113 of 2014

ORDER:

Challenge in the present writ petition is to the action of the respondents in not paying the retrial benefits of the petitioner i.e., 2,62,067/- towards gratuity.

2. Petitioner herein joined in Sri Ranganayaka Swamy Temple, Jaggaiahpet on 01.04.1985 as Junior Assistant and in the year 1993 he was transferred to Sri Tirupatamma Ammavari Devasthanam, Penuganchiprolu, Krishna District by the Second respondent/Commissioner of Endowments by virtue of Proceedings D.Dis No.A1/40442/03, dated 13.10.2003, and subsequently he was absorbed in the third respondent temple from the date of his original appointment i.e., 01.04.1985. Thereafter, petitioner herein was promoted as Senior Assistant and posted as such in the vacancy which arose in the third respondent temple and subsequently he was promoted as Superintendent and retired from service in the said category on 31.12.2010 while working at Sri Durgamalleswara Swamy Temple, Vijayawada.

3. After retirement, the Executive Officer of Sri Durgamalleswara Swamy Temple, Vijayawada forwarded the petitioner's last pay slips and other particulars to all the concerned including the Executive Officer of third respondent temple for settlement of pensionary benefits on 01.12.2012 and also sent back all the service records to the third respondent temple.

4. In the above background, complaining inaction on the part of the third respondent in not paying gratuity of Rs.2,62,067/- despite making representations, the present writ petition came to be filed.

5. The third respondent filed counter, resisting the averments made in the writ affidavit.

6. Heard Sri W.B.Srinivas, learned counsel for the petitioner herein and the learned Government Pleader for respondents 1 and 2 and Sri V.T.M.Prasad for the third respondent.

7. It is contended by the learned counsel for the petitioner herein that the action of the third respondent in not paying the gratuity of Rs.2,62,067/- is illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India. It is further submitted that the impugned action is in contravention of the Andhra Pradesh Charitable & Hindu Religious Institutions & Endowments Officer Holders and Servants Service Rules, 2000, as notified vide G.O.Ms.No.888, Revenue (Endowments. I) Department dated 08.12.2000. It is further contended that the justification sought to be offered in the counter filed by the third respondent cannot stand for judicial scrutiny in view of the said Rules.

8. On the contrary, it is vehemently contended by the learned Standing Counsel for the third respondent that there is no illegality nor there exists any infirmity in the impugned action and since the petitioner left the third respondent temple in the year 2006 and retired in 2010 while working at Sri Durgamalleswara Swamy Temple, Vijayawada, petitioner is not entitled for the benefits.

9. In the above backdrop, now the question that falls for consideration of this Court is "Whether the third respondent is justified in refusing to pay the gratuity as sought in the writ petition?"

10. The information available before this Court manifestly discloses the total absence of any controversy on the reality that the third respondent temple is a 6-A institution. It is also an admitted fact that till the year 2006 petitioner worked in the third respondent institution and thereafter he worked in Sri Durgamalleswara Swamy Temple, Vijayawada from 2006 to 2010 and retired at Vijayawada on attaining the age of superannuation. The only reason sought to be pressed into service by the third respondent for justifying the impugned action as per the counter affidavit is that till 2006 amount was paid and thereafter no amounts were deducted from the

salary of the petitioner from the date on which he joined service on transfer at Vijayawada. The sustainability of the said stand is required to be examined in the light of the Rules. The Rule which is germane and relevant for resolution of the instant controversy is Rule 27 of the said Rules, which reads as under:

“27. Group Gratuity:- (a) Every charitable or religious institution or Endowment published under clause (a) or clause (b) of Section 6k of the act excepting the eight institutions referred to in these rules shall introduce for the benefit of its office holders and servants . Group Gratuity, Life Insurance Scheme- as specified in Annexure-I to these rules.

(b) Where the existing benefits available to the office holders and servants of any institution or endowment are more beneficial than those indicated in the Annexure-I of these rules, those benefits shall be continued in respect of the office holders or servants holding office at the commencement of these rules. In respect of all other employees recruited on or after the commencement of these rules, the benefits shall be as in Annexure-I.

(c) The benefits in Annexure-I shall be provided by the Life Insurance Corporation of India.

- (1) Submission of Staff date;
- (2) Payment of premium on receipt of the quotation;
- (3) Completion of Master proposal and any other forms;
- (4) Furnishing evidence of health such as Medical reports on the lives of any employees etc., In accordance with the procedure indicated in Annexure-II appended to these rules.”

11. The adoption of the Government scheme by the third respondent in the year 2006, as averred in the writ affidavit, is neither controverted nor denied in the counter. The above Rules obligate the third respondent institution to pay the gratuity to the petitioner during the period 2006 to 2010 and working of the petitioner at Vijayawada during the said period would not absolve the third respondent from complying with the said statutory mandate.

12. For the aforesaid reason, the writ petition is allowed, directing the respondents to pay the amount of gratuity by taking into consideration the period commencing from 01.04.1985 till the date of retirement i.e., 31.01.2010. This exercise shall be done within a period of four months from the date of receipt of this order. As a sequel, the miscellaneous

petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 30.03.2016
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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Dated 30th March, 2016

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