THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.32799 of 2014 and 25745 of 2016

COMMON ORDER:

These two Writ Petitions are being disposed of by this common order as they relate to the promotion to the post of Superintendent in excess of the sanctioned strength.

When a show cause notice was issued to one Smt.N.Hymavathi on 11.08.2014 by the Deputy Commissioner & Executive Officer, Sri Ganesh Temple, Secunderabad, she filed W.P.No.32799 of 2014 challenging the promotion of the fourth respondent therein – Sri C.Mohan, as Senior Assistant and Superintendent of the temple and for a further declaration that she is entitled to the post of Senior Assistant with effect from 22.05.2004 and consequential promotion to the post of Superintendent with effect from 23.01.2012 duly treating the petitioner as senior to the fifth respondent in the cadre of Senior Assistant and Superintendent.

It is submitted by the learned Counsel for the petitioner in W.P.No.32799 of 2014 that, pursuant to the show cause notice, the petitioner submitted an explanation, but even though there was no order in the Writ Petition, no further action was taken by the Deputy Commissioner pursuant to the show cause notice.

The fourth respondent in W.P.No.32799 of 2014 filed W.P.No.25745 of 2016 challenging the proceedings dated 25.07.2016 reverting him to the cadre of Senior Assistant from the post of Superintendent by the very Deputy Commissioner who had not taken any action pursuant to the show cause notice issued to the petitioner in W.P.No.32799 of 2014.

It appears that after filing the Writ Petition in 2014 certain events took place, which led to the submission of a report by the Regional Joint Commissioner, Endowments Department, Hyderabad, in the month of May 2016, which had a bearing on the position of the petitioners in both the Writ Petitions. He noticed that there were three sanctioned posts of Superintendent, but four persons were working. As on 23.01.2012 it appears that Sri B.Kulandar Reddy was already working as Superintendent by virtue of his promotion on 04.07.2008 and there was no dispute with regard to his entitlement to continue in the post of Superintendent. However, three persons were promoted on 23.01.2012 in excess of the sanctioned strength and they are the petitioners in these two Writ Petitions and one Sri B.V.N.Murthy, who was arrayed as the fifth respondent in W.P.No.32799 of 2014.

There is some dispute with regard to the initial regularization of services of the petitioner in W.P.No.25745 of 2016 and the reasons for issuing the show cause notice to the petitioner in W.P.No.32799 of 2014 also have to be enquired

into. The petitioner in W.P.No.32799 of 2014 also claims seniority over the fifth respondent in the said Writ Petition. Thus, the petitioners in both the Writ Petitions and Sri B.V.N.Murthy are now affected by virtue of the present controversy. They are working as Superintendents and one person has to be reverted to the next lower cadre after thorough enquiry. Since this involves verification of the record and a decision on facts, this Court feels that the matter can be relegated to the Joint Commissioner (Vigilance) working in the Head Office, who shall go through the record, hear the affected parties, Sri B.V.N.Murthy, Sri C.Mohan and Smt.N.Hymavathi, after issuing notice to them, and pass appropriate orders in accordance with law, within a period of three months from the date of receipt of a copy of this order. Till such time, the order of *status quo* ordered on 02.08.2016 shall continue.

The Writ Petitions are, accordingly, disposed of. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

19.09.2016
vs