

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.32405 of 2015

ORDER:

1. The petitioner was initially appointed as Senior Assistant on 03.08.1982 and was posted as Inspector Auditor in West Godavari District. Thereafter, he was transferred to East Godavari District. In the year 1992, he was transferred to Hyderabad. He was promoted as Superintendent in the year 2000 and was further promoted as Assistant Secretary in the year 2010. Thereafter, he was promoted as Deputy Secretary in the year 2013. It is his case that there are four posts of Deputy Secretaries in the erstwhile Andhra Pradesh State Wakf Board. Out of the said four posts, one post was sanctioned by the 1st respondent. As per the recommendations of the House Committee Report of the Andhra Pradesh Legislative Assembly, three more Deputy Secretary posts were created. Thus, there are four posts of Deputy Secretaries. All the posts were filled up with the eligible and senior officials pursuant to the Board Resolution dated 29.10.2011. Accordingly, three Assistant Secretaries were promoted to the posts of Deputy Secretaries and one M.A.Gaffar was already holding the post of Deputy Secretary. Thereafter, three Deputy Secretaries were retired from service on attaining the age of superannuation. In the place of one M.A.Azeem, retired Deputy Secretary, the petitioner was promoted as Deputy Secretary by resolution of the Board dated 11.02.2013. Consequently, the proceedings were issued on 19.02.2013. When the petitioner was continuing as Deputy Secretary, the impugned order dated 24.08.2015 was passed reverting him to the post of Assistant Secretary on the ground that the post of Deputy Secretary was not sanctioned and the promotion of the petitioner was irregular and contrary to the rules. It was also stated that the Government in its Memo dated 04.05.2015 called for a report on the irregular promotions and the Chief Executive Officer, Wakf Board, submitted a report on 23.05.2015. As a consequence to the said report, the Government issued a Memo dated 04.08.2015 for taking

further action to revert the illegally promoted persons and recover the amounts paid to them. When the matter was placed before the Competent Authority on 07.08.2015, it was decided to withdraw the earlier resolutions promoting the persons. Challenging the said order dated 24.08.2015 the present writ petition was filed.

2. A detailed counter-affidavit was filed by respondents 2 and 3 and an application in W.P.M.P.No.51139 of 2015 was filed seeking impleadment of respondents 5 and 6.

3. This Court is not inclined to go into the merits of the case as it is evident from the impugned order that the petitioner, who was promoted by virtue of resolution of the Board with effect from 20.02.2013 as Deputy Secretary, is sought to be reverted based on a communication of the Government dated 04.08.2015. The petitioner was not put on notice and no opportunity was given to him. As on the date of passing of the impugned order, the petitioner was discharging the duties as Deputy Secretary.

4. Learned Counsel for the 3rd respondent submits that the erstwhile A.P. State Wakf Board was bifurcated and out of the four Assistant Secretaries, three Assistant Secretaries were allocated to the Telangana State Wakf Board, whereas the petitioner was allocated to the A.P. State Wakf Board.

5. In view of the violation of the principle of natural justice in reverting the petitioner from the post of Deputy Secretary to the post of Assistant Secretary, the impugned order dated 24.08.2015 is set aside, but liberty is given to the 3rd respondent to initiate appropriate proceedings in accordance with law, if he feels that the promotion of the petitioner from the post of Assistant Secretary to the post of Deputy Secretary was contrary to the rules.

6. The Writ Petition is accordingly allowed. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

23-08-2016

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