

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.27814 of 2016

ORDER

This writ petition is filed seeking to declare the action of the respondents 3 to 5 in not paying salaries from the month of February, 2015 on account of transfer/repatriation of the petitioner to the 5th respondent-temple *vide* proceedings dated 13.2.2015 of the 3rd respondent, as arbitrary and illegal.

Initially, the petitioner was appointed as Booking Clerk on 2.1.1990 in the 5th respondent-temple on a consolidated pay of Rs.350/- per month. His services were regularized *vide* proceedings dated 2.2.1995 and his pay was fixed in the time scale of pay of Rs.350/- - Rs.550/-. Later on, he was provided 1998 pay scales and he was extended the time scale of Rs.1745/- - Rs.3420/-. While so, he was deputed to another temple in Krishnalanka, Vijayawada, by proceedings dated 25.8.2006 of the 4th respondent and it was treated as permanent transfer *vide* proceedings dated 28.7.2007. But the 3rd respondent *vide* proceedings dated 13.2.2015 repatriated the petitioner to the 5th respondent-Temple. Accordingly, he reported to duty on 28.2.2015 and since then no salary was paid to him. The 5th respondent addressed letters dated 10.4.2015 and 13.8.2015 to the 3rd respondent, wherein he expressed the difficulty in payment of the salary and requested to make alternative arrangement. The

petitioner also submitted representations on 24.4.2015 and 25.10.2015 in that regard. The Inspector, Endowments Department, Gannavaram, Krishna District, also addressed a letter dated 14.11.2015 requesting the 3rd respondent to take necessary action with regard to payment of salary to the petitioner. In these circumstances, he filed the present writ petition challenging the impugned order passed by the 3rd respondent on 13.2.2015 repatriating him to the 5th respondent-Temple.

Counter-affidavit is filed by the 5th respondent admitting that the petitioner was appointed as Clerk in the temple and time scale was extended to him on 2.2.1995. It is stated that after his repatriation to the 5th respondent-temple on 13.2.2015, the petitioner submitted his joining report on 28.2.2015 and worked there till September, 2015. Thereafter, from September, 2015 till date, the petitioner has been absconding from duties without intimation or leave from the authorities. In those circumstances, a notice was issued to the petitioner on 23.7.2016, but the same could not be served and it was returned with an endorsement “insufficient address not traceable”. Hence, he is not entitled to salary from September, 2015 to till date. It is further stated that income of the 5th respondent is around Rs.5,00,000/- per annum and the salary payable to the petitioner is Rs.2,27,460/- which is more than the assessable income of the temple. The temple has to pay salaries to

the secular staff of Attender, Sleeper and religious staff, two archakas out of the income derived from the temple. As per the provisions of the Endowments Act, the establishment charges shall not exceed 30% of the assessable income. In those circumstances, letters dated 10.04.2015 and 13.08.2015 were addressed to the Deputy Commissioner-3rd respondent. The 3rd respondent, in turn, asked the 5th respondent to submit details of the petitioner and accordingly, details of the petitioner were submitted on 15.9.2015.

It is clear from the above facts that the petitioner belongs to 5th respondent-Temple and consequent to the order of repatriation passed by the 3rd respondent, the petitioner reported to duty on 28.2.2015. It is stated that he worked till September, 2015. Thereafter, his whereabouts are not known. These facts were brought to the notice of the 3rd respondent by the 5th respondent and in spite of the same, the 3rd respondent has not passed any orders.

The present writ petition is filed by the petitioner challenging the order of repatriation and the said order cannot be interfered with by this Court as the petitioner has accepted the said order and joined in the 5th respondent-Temple. However, with regard to payment of salaries, the 3rd respondent has to take a decision in accordance with law.

In those circumstances, the issues with regard to payment of salaries and the action to be taken against the petitioner are relegated to the 3rd respondent, who shall pass an order on the basis of factual report submitted by the 5th respondent within a period of eight weeks from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any pending in this writ petition shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

16th September,
rkk

