

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

WRIT PETITION No.5402 of 2016

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the order issued by the 1st respondent vide proceedings Roc.No.SGT3/10/Sri G.T./2010, dated 01-01-2016.

Heard, Sri K. Lakshmi Narasimha, learned counsel for the petitioners and Sri Sivaraj Srinivas, learned Standing Counsel for respondent No.1 and learned Government Pleader for Endowments for respondent No.2, apart from perusing the material available before this Court.

Petitioners herein are working in the institutions attached to the 1st respondent devasthanam as Melam staff and they have been working in the 1st respondent temple since the year 2005. Earlier the petitioners herein approached this Court by way of filing W.P.No.5175 of 2012, questioning the Memo bearing No.TS3/7682/2009, dated 11-08-2011 issued by the Executive Officer of the 1st respondent temple, rejecting the request of the petitioners for absorption. In the said writ petition this Court in W.P.M.P.No.6592 of 2012 passed an interim order, directing the respondents to pay to the petitioners the pay attached to their posts.

In pursuance of the said orders passed by this Court the 1st respondent issued an order vide proceedings Roc.No.TS3/10722/2005, dated 07-08-2012, fixing the pay of the petitioners herein.

Subsequently, in view of a doubt raised, the office of the Executive Engineer vide proceedings Roc.No.TS3/10722/ 2005, dated 24-12-2012, after examining the issue, held that earlier proceedings, dated 07-08-2012 would hold good. Subsequently, the 1st respondent adopted the revised pay scales of 2015 and accordingly extended the pay scales to the petitioners herein also. By virtue of an order vide proceedings Roc.No.SGT3/10/Sri G.T./2010, dated 01-01-2016 the respondents once again reviewed the issue and directed the Drawing and Disbursing Officers concerned to pay only pay attached to the posts without allowing any allowances. The said order passed by the 1st respondent is under challenge in the present writ petition.

Though a number of contentions have been raised in the writ petition, the principal objection against the impugned action is non-issuance of notice to the petitioners before resorting to the impugned action. While elaborating the said stand taken by the petitioners in the writ petition, it is argued by the learned counsel for the petitioners that the impugned order passed by the 1st respondent is in total violation of the principles of natural justice as the same was not preceded by any notice or opportunity of being heard to the petitioners.

A perusal of the order impugned in the present writ petition, in clear and unequivocal terms, discloses that no such notice was issued to the petitioners herein prior to resorting to the impugned action.

It is settled and well-established proposition of law that any action, which has civil consequences, shall necessarily be

preceded by notice and opportunity of being heard to the persons likely to be affected by such action. In the instant case, the same is conspicuously absent.

For the aforesaid reasons and without going into other aspects of the matter, the writ petition is allowed, setting aside the order passed by the 1st respondent vide proceedings Roc.No.SGT3/10/Sri G.T./2010, dated 01-01-2016. However, this order will not preclude the respondents from taking any action after giving notice and opportunity of being heard to the petitioners herein and to proceed, in accordance with law.

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.V. SETHA SAI, J

February 19, 2016

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

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WRIT PETITION No.5402 of 2016

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February 19, 2016

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