

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.1518 OF 2010

Dated:07.02.2017

Between:

C. Nagaraju, S/o. Purshotham,
Aged 35 years, Occ: Junior Assistant,
Sri Venkateshwara Swamy Temple,
Narsimhulapet Village and Mandal,
Warangal District

.. Petitioner

AND

The Commissioner, Endowments Department,
Andhra Pradesh, Dharmika Bhavan,
Boggulakunta, Hyderabad and another

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.1518 OF 2010****ORDER:**

Heard learned counsel for the petitioner and learned Standing Counsel for the 2nd respondent.

2. The petitioner joined as Record Assistant on 26.12.1992 in Sri Venkateswara Swamy Temple, Narsimhulapet Village and Mandal, Warangal District. At the time of joining service, the petitioner passed S.C.C. examination and next promotion to an employee working in Temple service is to the post of Junior Assistant. The qualifications prescribed for promotion to the post of Junior Assistant is to pass Intermediate or its equivalent examination. Though the petitioner did not possess the qualification of Intermediate, on a proposal submitted by the Deputy Commissioner, Endowments Department, Warangal, the Commissioner acceded to the request for granting promotion to the petitioner as Junior Assistant and by order dated 01.05.2005, he was promoted as Junior Assistant. The order of promotion was with a condition that the petitioner should pass Intermediate or its equivalent examination within two years. The order clearly indicates that he would be reverted, if he did not pass Intermediate or its equivalent examination. It appears that several such promotions are made in the Temple service. The Commissioner by his Memo, dated 11.08.2009, directed the Unit Heads to undertake review of all promotions made without possessing the requisite qualification and to revert the persons, who do not possess the qualification. As a consequence to the orders of the Commissioner,

by the order impugned in the Writ Petition, the petitioner was reverted as Record Assistant, since he did not pass Intermediate examination within the time granted or even by the time the order of reversion was passed. In this Writ Petition, the petitioner challenges the order of reversion as Record Assistant.

3. Learned counsel for the petitioner contends that there is no requirement to pass Intermediate examination and therefore reverting the petitioner on the ground that he did not pass Intermediate examination is *ex facie* illegal. He submits that the Executive Officer, the 2nd respondent, is not competent to revert the petitioner and it is only the Commissioner, Endowments Department, who is competent to pass the order of reversion. The order of reversion is by way of punishment and no such order can be passed without following the procedure as envisaged in Employees Classification, Control and Appeal Regulations, 1967 (for short, 'the Regulations'). He further submits that since the petitioner passed the Departmental Test in the year 2013, he ought to have been granted promotion at least after he passed the said Departmental Test.

4. Learned Standing Counsel for the 2nd respondent justifies the action of the respondents in reverting the petitioner. He contends that as the petitioner has not qualified to be promoted as Junior Assistant and since his promotion was granted with a condition, on not fulfilling the said condition, he was validly reverted.

5. The order of promotion granted to the petitioner clearly stipulates that he should pass Intermediate or its equivalent examination within two years from the date of granting promotion. Thus, the order of promotion was conditional and was temporary.

6. Admittedly, the petitioner has not fulfilled the condition within the time granted or by the time, the impugned order of reversion was passed. Therefore, the petitioner is liable to be reverted. The order of reversion is not a consequence of disciplinary action and as a measure of penalty and therefore the Regulations are not violated. It is a reversion simplicitor for not fulfilling the requirements to hold the post or conditions of promotion.

7. No Rule/Regulation is brought to my notice, which enables a person, who does not possess Intermediate pass certificate to be promoted as Junior Assistant. More so, the petitioner did not protest when he was granted promotion as Junior Assistant with a condition that he should pass Intermediate or its equivalent examination within two years. The order of reversion impugned in the Writ Petition only gives effect to the condition imposed in the order of promotion and it is not disputed that the petitioner has not passed Intermediate examination by the time the order of reversion was passed. Hence, I see no illegality in the order passed by the 2nd respondent warranting interference by this Court. The Writ Petition is liable to be dismissed.

8. The Writ Petition is accordingly dismissed. It is needless to observe that the petitioner claims to have subsequently qualified to be promoted as Junior Assistant. Thus, this order

does not come in the way of consideration of the entitlement of the petitioner for promotion. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:07.02.2017

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