

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 23365 of 2017

Order:

The petitioner was appointed as a Junior Assistant in the fourth respondent Temple. After the Temple was taken over by the Endowments Department, the Temple is being managed by an Executive Officer. While so, when the Executive Officer passed an order of dismissal from service against the petitioner on 23.06.2015, without assigning any reasons and conducting any enquiry, the petitioner filed W.P.No.19530 of 2015. The said Writ Petition was allowed on 01.07.2015 giving liberty to the fourth respondent to take appropriate departmental proceedings against the petitioner. Pursuant to the same, the petitioner was reinstated into service on 03.07.2015. The petitioner was, thereafter, kept under suspension on 09.07.2015 and statement of articles of charges was served on him. Eighteen (18) articles of charges were framed against the petitioner and the petitioner submitted his explanation on 25.07.2015. When the subsistence allowance was not paid, the petitioner filed W.P.No.36112 of 2015 and the same was disposed of on 05.11.2015 with a direction to release the subsistence allowance. The enquiry was completed and it was held by the Enquiry Officer that out of eighteen (18) charges seven (7) charges were proved. A final show cause notice was issued on 22.05.2017 proposing the punishment of dismissal from service. The petitioner submitted his explanation on 08.06.2017. Thereafter, the fourth respondent passed an order on 27.06.2017 awarding the punishment of removal from service and the same is challenged in the present Writ Petition.

A counter affidavit is filed by the fourth respondent stating that the impugned order was passed after conducting enquiry and following due procedure.

Though the learned counsel for the petitioner vehemently argued that the impugned order of dismissal suffers from many irregularities, in view of availability of alternative remedy of appeal under Section 37 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), this Court is not inclined to entertain the present Writ petition.

Learned counsel for the respondents submits that as on today there is no Trust Board and the petitioner cannot exercise the right of appeal also as provided under Section 37 (3)(b) of the Act. However, sub-section (4)(b) of Section 37 provides for a second appeal to the Commissioner and the petitioner can avail such remedy against the impugned order, as the appellate authority would be in a better position to appreciate the evidence adduced before the fourth respondent and pass a reasoned order.

In the circumstances, this Writ Petition is disposed of giving liberty to the petitioner to submit an appeal to the Commissioner, Endowments Department, who is not a party to the present Writ Petition, within a period of thirty (30) days from the date of receipt of a copy of this order and the Commissioner shall dispose of the same within a period of three (3) months from the date of receipt of the appeal from the petitioner. If the petitioner does not prefer any appeal within the said period, it is needless to observe that the impugned order would come into effect. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 23.11.2017

Note:

Office to despatch copy of this order to the Commissioner, Endowments Department, Amaravathi.

(B/O)

Nsr

