

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Sri JUSTICE M.GANGA RAO

+ Writ Petition No.24592 of 2016

% 07-12-2017

- # 1. The Commissioner of Endowments Department,
Telangana, Boggulakunta, Tilak Road, Hyderabad.
2. The State of Telangana, Rep. by its Principal Secretary
to Government, Revenue (Endowments) Department,
Secretariat, Hyderabad – 500 022.

... Petitioners

Vs.

- \$ 1. G.Hanumantha Rao, S/o.Sri Gunde Rao,
aged about 58 years, Retired Junior Assistant,
Group Temples of Sri Veeranjaneya Swamy Vari
Devasthanam, Gattupally Village, Maheswaram
Mandal, Ranga Reddy District,
R/o.7-125, Simhapuri Colony, Nagaram Village,
Keesara Mandal, Ranga Reddy District.
2. Andhra Pradesh Administrative Tribunal,
Rep. by its Registrar, Purani Haveli, Hyderabad.

... Respondents

! Counsel for the Petitioners: Government Pleader for
Services (Telangana)

Counsel for Respondent No.1: Mr. P.V.S.S.S.Rama Rao

< Gist:

> Head Note:

? Cases referred:
Nil

**THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND**

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No. 24592 OF 2016

ORDER: (*Per VRS,J*)

Aggrieved by the order of the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal'), directing the Department of Religious Endowments to grant appointment to the first respondent as Executive Officer Grade-III by the method of transfer on notional basis with all consequential benefits, the State of Telangana and the department have come up with the above writ petition.

2. Heard the learned Government Pleader for Services (Telangana) and Mr. P.V.S.S.S.Rama Rao, learned counsel for the first respondent.

3. The first respondent was appointed in a group of temples known as 'Sri Veeranjanya Swamy Vari Devasthanam'. He passed the required departmental tests for appointment to the post of Executive Officer Grade-III and his name was included in a list of candidates eligible for such appointments, at serial No.10. This was by proceedings dated 10.05.2013.

4. It appears that there were nine vacancies in Ranga Reddy district, but the department did not fill up the vacancies, though the vacancies were filled up by the department in all other districts. In

other words, Ranga Reddy district came to be treated with discrimination. The consequence was that the first respondent retired on 31.08.2013, without getting appointment to the post of Executive Officer Grade-III.

5. It appears that after his retirement, his juniors in Ranga Reddy district, gained appointment to the post of Executive Officer Grade-III. Therefore, the first respondent filed an application in O.A.No.2227 of 2014 on the file of the Tribunal, contending *inter alia* that the non-granting of appointment in Ranga Reddy district alone was discriminatory; that by waiting till the date of his retirement, the department successfully defeated the valuable rights of the first respondent and that therefore a gross injustice has been committed to him.

6. The Tribunal allowed the original application on the ground that after the inclusion of the name of the first respondent in the list dated 10.05.2013, the department denied appointment to the first respondent wrongfully. Aggrieved by the said order, the department has come up with the above writ petition.

7. It may be true that the department did not effect appointments in Ranga Reddy district alone and waited till the retirement of the first respondent. But even admittedly, the name of the first respondent was included at serial No.10 in the list dated 10.05.2013. There were admittedly only nine vacancies. The department filled up eight

vacancies. The ninth vacancy could have gone to the first respondent, if the vacancy had been filled up before his retirement.

8. But unfortunately, there is no law that requires the department to fill up all vacancies at the appropriate time. No court can compel the departments to fill up all vacancies.

9. Unless and until the first respondent was able to point out that any one of his juniors secured a march over him even while he was in service, the first respondent is not entitled to the relief that was granted by the Tribunal. From the date of inclusion of his name at serial No.10 in the list dated 10.05.2013, upto the date of his retirement on 31.08.2013, none of the juniors of first respondent was granted appointment or promotion. It is settled law that even the inclusion of the name in a panel for promotion does not confer a right to be promoted unless the candidate was overlooked.

10. The learned counsel for the first respondent relies upon a decision of a Division Bench of this Court dated 18.03.2008 in W.P.No.5730 of 2008. But in that case, the name of the candidate was included in the panel dated 14.06.2000 and was also promoted on 06.11.2000. But that order was not implemented due to court orders. By the time the prohibitive orders of the court got removed, the candidate retired from service. Therefore, in that context, a Division Bench of this Court said that the supervening impossibility cannot be pleaded as a ground, on the basis that none of the juniors got

promoted. The candidate before the Division Bench in that case actually got an order of promotion which could not be implemented. Therefore, the said case stands on no comparison to the case on hand.

11. In view of the above, the Writ Petition is allowed and the impugned order of the Tribunal is set aside.

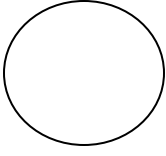
Consequently, miscellaneous petitions if any pending in the writ petition shall stand closed. No order as to costs.

V. RAMASUBRAMANIAN, J

M.GANGA RAO, J

7th December, 2017
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