

THE HON'BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.27159 of 1998

ORDER:

The petitioner, Manager of Si Gokarneswara Swamy Temple, filed this writ petition being aggrieved by the proceedings No.B2/18346/92 Admn., dated 23.11.1993 of the 2nd respondent wherein the petitioner was transferred and posted as Manager of Si Lankamma Ammavari Temple, Avanigadda vice Si T.Nancharaiah Clerk transferred.

The case of the petitioner is that he was appointed as Clerk in Si Narendra Swamy Temple and Si Veerabhadra Swamy Temple of Nangeedadda of Krishna District on 1.4.1970. After completion of 12 years of satisfactory service as a temple clerk, he was appointed as Manager to Si Gokarneswara Swamy Temple, Lingareddypalem, Devi Taluq, Krishna district and he had been functioning as such from 1.10.1982 onwards. As he passed the departmental test, the hereditary trustee of the temple addressed a letter dated 23.6.1990 to the 3rd respondent requesting to promote the petitioner as Executive Officer. The 2nd respondent issued proceedings Rc.No.G1/40068/90 dated 10.9.1990 appointing the petitioner as Manager exclusively for Si Gokarneswaraswamy Temple, Lingareddypalem, Koduru Mandal, Krishna District permitting him to draw the time scale of Rs.910-30-1240-35-1625/- from the funds of the said temple. The time scale of Rs.910-30-1240-35-1625/- is the scale of Grade III Executive Officer. While the matter stood thus, the

3rd respondent issued proceedings Rc.No.B2/18346/92 Admn., dated 23.11.1993 transferring the petitioner from Sri Gokarneswara Swamy Temple to Sri Lankamma Ammavari Temple, Avanigadda. Through the said proceedings, he was transferred to a clerk post to work under the Executive Officer. Against the said proceedings, the petitioner submitted several representations but no orders were passed on the said representations. Being aggrieved by the proceedings dated 23.11.1993, the present writ petition came to be filed.

The respondents filed counter affidavit stating that the petitioner was appointed as Clerk in Sri Narendra Swamy Temple and Sri Veerabhadra Swamy Temple of Nangeedadda of Krishna District on 1.4.1970 by hereditary trustee. He was appointed on a fixed salary of Rs.125 per month which is equivalent to 2 ½ bags of paddy. His salary was enhanced to 2 ¾ bags per month in the year 1976-77 and to Rs.3,600/- per month in the year 1981-82. He was relieved on 30.9.1982. The petitioner was appointed as Manager-cum-Accountant of Sri Gokarneswara Swamy Temple, Lingareddypalem, Devi Taluk, Krishna District on 1.10.1982 by the hereditary trustee and he was paid salary of Rs.300/- per month. His salary was enhanced as per the sanction of the Assistant Commissioner. His salary was revised in the scale of Rs.425-10-455-50-650 with D.A. at 30% of the pay as per G.O.Ms.No112, dated 3.4.1982 with effect from 1.4.1987 as per the orders in LDis.No.A2/2481/87-administration, dated 4.4.1987 of the Assistant Commissioner, Endowments Department, Vijayawada. Later, his salary was enhanced as per the Government orders. The petitioner

claims that he passed the accounts test and departmental but his service register does not contain any such endorsement. The list of employees sent by the Deputy Commissioner of Endowments Department, Kakinada in Rc.No.B4/7463/06, dated 2.9.2006 discloses that the petitioner passed the Accounts Test only and he is not qualified to be posted as Grade III Executive Officer by transfer as he did not pass Accounts Test for Subordinate Officers Part-I and Endowments Department Paper I & II as prescribed by G.O.Ms.No.395 dated 14.6.2000 as well as G.O.Ms.No.262 dated 20.5.2002. The petitioner was transferred from Sri Gokarneswara Swamy Temple to Sri Lankamma Ammavari Temple, AVanigadda, and there is no mistake in regard to description of his designation as Clerk in the transfer order. The 2nd respondent informed the petitioner vide proceedings in Rc.No.G1/27022/94 dated 24.11.1994 that his request for promotion as Grade III Executive Officer could be considered only after fixation of cadre strength by the Government subject to eligibility of the petitioner for promotion as per rules. The petitioner was shown at Sl.No.29 in the list of Junior Assistants in Zone-II but the seniority of Lower Division Clerks in the district only has to be taken into consideration under the Government orders for promotion and the seniority in the zone cannot be taken into consideration. None of his juniors were promoted and appointed as Grade III Executive Officers. The contention of the petitioner that he is qualified and he is not promoted and is violation of Article 14 of the Constitution of India is untenable.

It is further stated that the Commissioner, Endowments, Hyderabad, issued proceedings Rc.No.E3/22291/1994 dated 12.8.2005 as per the orders of this Court in WP.No.7217 of 1994 dated 18.9.2000 and as per the orders of the Tribunal in O.A.No.3225 of 2003 and batch dated 7.3.2005 including Government orders wherein it was stated that as could be seen from the SR of the individual, there are two entries for appointment, one as clerk in Sri Narendara Swamy and Virugulamma Ammavari Temple, Nagegadda w.e.from 1.4.1970 on a fixed salary of Rs.120/- per month worth of 2 ½ bags of paddy and the second one is appointment as Manager- cum-Accountant in Sri Gokarneswhara Swamy Temple, Lingareddypalem w.e. from 1.10.1982 on a fixed salary of Rs.300/- per month. The Assistant Commissioner of Endowments, Vijayawada has taken this date as relevant for finalizing the seniority list and when once appointment was made on 1.10.1982, all the previous claims of the individual fails and the plea that his service is countable from 1.4.1970 does not stand merit. Even now, there is no change in the place of the petitioner in the seniority list. Further, none of his senior or junior in the seniority list prepared by the Assistant Commissioner is promoted till date to the cadre of Executive Officer, Grade III. Out of the posts of Executive Officer Grade III in the district, only four posts will be available to the temple employees in the cadre of Junior Assistant in the district as the employees of the temple are entitled to be appointed as Executive Officers Grade III to the extent of 20% of the vacancies. The cadre strength of Executive Officers Grade III in Krishna district is 20. As per Section 29(3) of Endowments Act, 20% of the vacancies

have to be filled up by temple employees and there were 18 vacancies only when the selection was taken up, therefore, three temple employees were posted as Grade III Executive officers. Seven persons who are seniors were considered and out of seven only three qualified clerks were appointed and the persons who are at S.Nos.3, 6 and 7 were given appointment orders on 7.12.2006. Being aggrieved by the proceedings, the petitioner filed CC.No.98 of 2005 for non compliance of the orders in WP.No.7217 of 1994 dated 18.9.2000. This Court dismissed the contempt case on 8.6.2006 giving liberty to the petitioner to assail the order dated 12.8.2005 by way of separate proceedings. It appears that the said order is not challenged and has become final. It appears, thereafter also, on the representation of the petitioner, the Deputy Commissioner of Endowments, Kakinada in his Letter No.B4/7463/06 dated 2.9.2006 referred to the Commissioner showing the petitioner at S.No.12 and at S.No.1 in proceedings Rc.No.E2/1238/05 dated 15.4.2006 in the seniority list and remarked that the service rendered in Sri Nagendra Swamy Temple and Sri Veerabhadra Swamy Temple, Nangeegadda on a fixed salary from 1.4.1970 cannot be counted and the service from 1.10.1982 has only to be counted. So his seniority in the Krishna District is shown at sl.No.12. There were several objections for the interim seniority list approved by the Deputy Commissioner, Endowments Department, Kakinada and ultimately the seniority list was prepared and qualified persons are posted as Grade III Executive Officers, but the said proceedings were not challenged.

As seen from the records and as per the Government Orders, the petitioner is not qualified to be appointed as Grade III Executive Officer as he passed the Accounts Test only and not the departmental test. However, the petitioner has not challenged the proceedings dated 12.8.2005 and also proceedings dated 15.4.2006. Subsequently, the petitioner retired from service in the year 2006.

In considered view of this Court and in view of the subsequent proceedings passed in Rc.No.E3/22291/1994 dated 12.8.2005 and also proceedings in Rc.No.E2/12318/2005 dated 15.4.2006, the petitioner is not entitled to be appointed by transfer to the post of Grade III Executive Officer as he is not eligible and qualified. Hence, the writ petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M. GANGA RAO

Date: 16/07/2018

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