

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO**

WRIT APPEAL NO.482 OF 2016

JUDGMENT: (Per Hon'ble Sri Justice M.Ganga Rao)

Sri Durga Malleswara Swamy Varla Devasthanam represented by its Executive Officer, Vijayawada, Krishna District, filed this Writ Appeal against the order dated 28.10.2015 passed in W.P.No.27423 of 2012 directing it to fix the pay of the 1st respondent-writ petitioner on par with the 4th respondent in the category of Assistant Executive Officer. Appellant is the third respondent in the said Writ Petition.

Heard the learned counsel for the appellant, Sri G.V.Shivaji, learned counsel for the first respondent, and Sri K.Ananda Rao, learned counsel for R.4.

The 1st respondent herein filed W.P.No.27423 of 2012 before this Court against the proceedings dated 16.06.2012 issued by the appellant in R.C.No.A1/317/2012 rejecting his claim for fixation of his pay on par with the 4th respondent. The said writ petition was allowed on the ground that the 1st respondent was senior to the 4th respondent in the cadre of Senior Assistant. In the seniority list of Senior Assistant, published on 02.06.2000 by the appellant, the 1st respondent's name was shown at Sl.No.5 whereas the name of the 4th respondent was shown at Sl.No.7 and thereby, admittedly the 4th respondent was junior to the 1st respondent in the cadre of Senior Assistant in the appellant-institution. Subsequently, the 4th respondent was promoted as Public Relation Officer in the cadre of Superintendent, by proceedings dated 24.09.2002, ignoring the seniority of the 1st respondent in the cadre of Senior Assistant. As per Rule 13 of the A.P. Charitable and Hindu Religious Institutions

and Endowments Office Holders and Servants Service Rules, 2000, as amended by G.O.Ms.No.888 dated 08.12.2000, seniority alone is the criteria for effecting promotions. When the 4th respondent's promotion was challenged by the 1st respondent in W.P.No.23889 of 2002, this Court allowed the writ petition directing the appellant to extend all the monetary benefits to the 1st respondent on par with 4th respondent and further directed the authorities, including the appellant, to follow the Rules governing the Service conditions while giving further promotions. As per the revised pay scales, the pay of the 4th respondent was fixed in the higher pay scale whereas the 1st respondent's pay was fixed lesser than the 4th respondent, who was junior to the 1st respondent in the cadre of Senior Assistant. The 1st respondent submitted a detailed representation dated 07.03.2012 seeking fixation of his pay on par with the 4th respondent, but the same was rejected by proceedings dated 16.06.2012 stating that the 4th respondent was extended the pay scale of Assistant Executive Officer when he was holding the post of Public Relation Officer, as per the order of this Court passed in W.P.No.18200 of 2005 and W.P.No.25963 of 2005 dated 14.12.2010. He was therefore allowed to draw the monetary benefits attached to the post of P.A. to Executive Officer w.e.f.23.09.2004, though he was holding the post of Superintendent, contrary to Rule 13, ignoring the seniority. Further, the 4th respondent was allowed to discharge the duties of Public Relation Officer, contrary to A.P. Charitable and Hindu Religious Institutions and Endowments Subordinate Service Rules, 2002.

The 1st respondent was also promoted on 09.05.2005 as Assistant Executive Officer, which was re-designated as P.A. to Executive Officer and he was shown as senior to the 4th respondent

in the cadre. Pay of the 1st respondent was however fixed far less than the 4th respondent, who was his junior.

The learned Single Judge, while allowing W.P.No.23889 of 2002, held that the 1st respondent is senior to the 4th respondent and he is entitled to the same pay scale of the 4th respondent. The said finding has become final. Based on said finding, the learned Single Judge allowed W.P.No.27423 of 2012, vide the impugned order, directing the appellant to fix the pay of the 1st respondent on par with the 4th respondent in the category of Assistant Executive Officer.

In Service Jurisprudence, the senior's pay and cadre has to be stepped up on par with his junior in the same cadre. Accordingly, the learned single Judge rightly allowed the Writ Petition. Considering the submission of the learned counsel and on perusing the order of the learned single Judge under appeal, we find that there is no error fact or law which warrants our interference in appeal.

For the reasons stated above, the Writ Appeal is dismissed.

Pending miscellaneous petitions, if any, shall stand dismissed.

No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

29th November, 2018
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