
(1995) 10 AP CK 0036

In the Andhra Pradesh High Court

Case No : Writ Petition No. 21445 of 1995

D. Srinivasulu Reddy

APPELLANT

Vs

Tirumala Tirupati Devasthanam and others

RESPONDENT

Date of Decision : 20-10-1995

Acts Referred:

Citation : (1999) 1 ALD 411

Hon'ble Judges : Syed Saadatullah Hussaini, J

Bench : Single Bench

Advocate : Mr. A. Panduranga Rao, for the Appellant; Mr. M. Adinarayana Raju, Government Pleader for Endowments and Mr. K. Harinath, SC for APSRTC (not present), for the Respondent

Judgement

1. Heard Mr. A. Panduranga Rao, learned Counsel for the petitioner, Mr. M. Adinarayana Raju, learned Standing Counsel for the first respondent and the learned Assistant Government Pleader for Endowments for the second respondent. None appears for the third respondent-Corporation.

2. In this writ petition, the petitioner is questioning the resolution Nos.888 and 260, dated 7/8-12-1994 and 10-5-1995 respectively passed by the first respondent, as illegal, null and void and to quash the same.

3. The petitioner while working under the third respondent-Corporation as security Sub-Inspector was posted on deputation with the first respondent on 30-4-] 992 for a period of three years and by proceedings No.C1/ 126/S and VO/TPT/92, dated 16-5-1992 the first respondent appointed the petitioner as Vigilance Inspector. It is submitted that even before completion of the period of deputation, the first respondent absorbed the petitioner in the first respondent establishment to the post of Vigilance and Security Officer Grade-II on 18-11-1992. It is further stated that the Government has permitted the petitioner's absorption in the first respondent establishment on 1-12-1993 before his services were absorbed in the first respondent establishment.

4. As the matter rested there, the first respondent has passed the impugned resolutions No.888 and 260, dated 7/8-12-1994 and 10-5-1995 respectively, which are filed in the material papers at page Nos.33-35 and 45-47. The petitioner questions the impugned resolutions as they are not sustainable in law.

5. Mr. M. Adinarayana Raju, learned standing Counsel does not dispute the facts as stated above, but states that following the decision of the Supreme Court in Civil Appeal No.184 of 1998 which is between the Management Committee of TTD and one of the employees i.e., R. Suryanarayana Murthy, Assistant Director of Information and Public Relations Department, Government of A.P., was also deputed to the TTD's establishment and on obtaining permission from the Government, his services were absorbed in the TTD establishment as Public Relations Officer who was working on deputation from the Information and Public Relations Department of the State in the first respondent's establishment.

6. When one of the first respondent's employees i.e., O. Subba Reddy claiming to be appointed for the post of Public Relations Officer in the TTD approached this Court, and later went to the Supreme Court. The Supreme Court has set aside the absorption of Mr. R. Suryanarayana Murthy in the TTD establishment, in Civil Appeal No. 184 of 1988, dated 17-8-1994.

7. The Division Bench of this Court in Writ Appeal No. 1166 of 1986, dated 9-11-1987 relied upon the earlier judgment of the Apex Court in CM. Naidu v. State of Karnataka 1977 (1) SLR 194, and held as follows:

"The Cadre and Recruitment Regulations thus recognised only two modes of recruitment to the post of Senior Health Inspector, namely, promotion from the cadre of Junior Health Inspectors and deputation from the State Directorate of Health Services and one-half of the cadre was to be drawn from each of these two sources. No other mode of recruitment could be resorted to by the Corporation under the cadre and Recruitment Regulations. It is difficult to see how in the face of this provision which has admittedly statutory effect, the posts of Senior Health Inspector could be filled in by absorption of deputationist Senior Health Inspector from the Karnataka State Civil Service. Senior Inspectors from the State Directorate of Health Services could only be on deputation to the extent of one-half of the number of posts of Senior Health Inspectors on the Corporation establishment and they could not be absorbed as permanent Senior Health Inspectors under the Corporation without violating the aforesaid statutory provision. This statutory provision does not contemplate any Senior Health Inspector on the establishment of the Corporation who are drawn from the State Directorate of Health Services otherwise than on deputation and to absorb Health Inspector from the State Directorate of Health services as Permanent employees of the Corporation (otherwise than on deputation), would be plainly contrary to its express mandate. It was, however, contended on behalf of the appellants that when they were absorbed as permanent Senior Health Inspectors on the establishment of the Corporation, they were already in the cadre of Senior Health Inspectors under the Corporation, filling 50% of the posts and their absorption as

permanent Senior Health Inspector did not constitute fresh entry into the cadre so as to require compliance with the Cadre and Recruitment Regulations. The position, according to the appellants was similar to that an employees who is initially officiating in a post in a cadre and is subsequently confirmed in the post. This contention, we do not think is well founded. It is only by way of deputation that Senior Health Inspectors from the State Directorate of Health Services can find place in the Cadre of Senior Health Inspectors on the establishment of the Corporation. Not only their entry but also their continuance in the cadre of Senior Health Inspectors on the Corporation establishment depends on their being on deputation. There is no scope under the Cadre and Recruitment Regulations for their absorption as permanent Senior Health Inspectors under the Corporation. In fact, it is impermissible to do so. The category of Senior Health Inspector, who are regular employees of the Corporation, can be drawn only by promotion from Junior Health Inspectors and that to the extent of only one-half the number of posts. It is, therefore, obvious that without amendment of the Cadre and Recruitment Regulations permitting appointment by absorption is really nothing but appointment of Senior Health Inspectors drawn from the State Directorate of Health Services as permanent Senior Health Inspectors under the Corporation, the appellants could not be absorbed as permanent Senior Health Inspectors on the Corporation establishment."

8. The Division Bench of this Court further observed that the above judgment squarely applies to the facts of the present case and in view of the same, the contention of the learned Counsel for the appellant cannot be upheld.

9. Following the judgment of the Supreme Court in *CM. Naidu v. State of Karnataka* (supra), it cannot be disputed that the Rules issued in G.O. Rt. No.1821, dated 1-12-1993 do not provide for direct appointment or absorption of a deputationist in the service of TTD.

10. In the above circumstances and following the judgment of the Division Bench of this Court in Writ Appeal No. 1166 of 1986, dated 9-11-1987, which was confirmed by the Apex Court in Civil Appeal No. 184 of 1988, dated 17-8-1994, I do not see any merits in the writ petition. Accordingly, the same is dismissed. No costs.