
(2003) 01 AP CK 0097

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 4951 and 10115 of 1995

K.R. Raghu

APPELLANT

Vs

Executive Officer, Tirumala Tirupathi Devasthanam

RESPONDENT

Date of Decision : 06-01-2003

Acts Referred:

Citation : (2003) 2 ALD 790 : (2003) 3 ALT 198

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : V. Jagapathi, for the Appellant; A.K. Jayaprakash Rao, SC, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—These two writ petitions involve common question of fact as well as law. Hence, they are disposed of through a common judgment.

2. Tirumala Tirupathi Devasthanam (TTD) is a statutory Organisation, created under the Tirumala Tirupathi Devasthanams Act, to administer and manage the affairs of the various temples covered under the Act. In the matter of employment, the TTD is obliged to follow the instructions issued by the Government from time to time.

3. The Government imposed ban on the recruitment of candidates into various cadres within the TTD during 1978-79. As such no regular appointments could be made. To meet, the exigencies of service, appointments had to be made on NMR or casual basis, on consolidated emoluments.

4. The petitioner in W.P. No. 4951 of 1993 (hereinafter referred to as the 1st petitioner) came to be appointed on NMR basis on 1-3-1981. The petitioner in W.P. No. 10115 of 1993 (hereinafter referred to as the 2nd petitioner) was appointed on daily wages basis on 1-5-1987. The 1st petitioner was inducted into service as Helper, whereas the 2nd petitioner was appointed in Attender's/ Volunteer's cadre.

5. The matter relating to regularisation of the services of the candidates appointed on casual and NMR basis was pending with the Government for quite some time. The Government issued G.O. Ms. No. 296 dated 19-4-1988 providing for regularisation of such of the persons engaged on NMR/casual basis on consolidated pay between 1-1-1979 and 31-3-1984. Similarly, Government has also issued G.O. Ms. No. 391, dated 6-5-1991 according sanction to the TTD to create 1235 posts in various Departments existing as on that date and enabling it to absorb the persons working as Unit workers/Volunteers and to extend them regular pay scales. While the 1st petitioner was entitled to be absorbed in view of the orders of the Government in G.O. Ms. No. 296 dated 19-4-1988, the 2nd petitioner was entitled for the benefit under G.O. Ms. No. 391 dated 6-5-1991.

6. G.O. Ms. No. 296 dated 19-4-1988 was challenged by certain Organisations by filing W.P. No. 7680 of 1988. Pending the writ petition, the operation of the said G.O., stayed. Subsequently, the writ petition itself was dismissed. Accordingly, the TTD issued proceedings dated 30-10-1990 regularising the services of the 1st petitioner as Helper in the scale of Rs. 740-1120. The services of the 2nd petitioner was regularised through proceedings dated 1-8-1991 as Volunteer (Attendees cadre) in the same scale of pay.

7. The 1 st petitioner made a representation to the TTD on 3-12-1992 claiming that though he was inducted into service as Helper, he held requisite qualification to be appointed as an Assistant in 1981, and in fact he has been entrusted with such functions. Citing certain instances, he requested that he also be absorbed as Assistant. The representation of the 1st petitioner was taken up by the TTD and through its proceedings dated 9-6-1993, it informed the 1st petitioner that his case will be considered at an appropriate time as per the Rules. No such representation appears to have been made by the 2nd petitioner. However, it is his case that he too was entitled to be regularised in the category of Assistant in the scale of pay of Rs. 810-1420, since he held the requisite qualification at the relevant point of time and was discharging the duties of an Assistant.

8. Both the petitioners have filed these writ petitions seeking a declaration that the action of the respondent in not considering their cases for regularisation or absorption, as the case may be, as Assistants, is illegal, arbitrary and they seek a consequential direction to the respondent to extend such relief.

9. Pending writ petitions, this Court passed interim orders to the effect that if the petitioners were functioning as Assistants, they shall be continued as such. The same appears to have been construed as a direction to pay them the salary attached to the post of Assistant and orders were passed, claiming to be in pursuance of the orders of this Court, extending the scale of pay of Rs. 810-1420 attached to the post of the Assistant.

10. The TTD has filed a counter-affidavit in both the writ petitions. It is their specific case that none of the petitioners were either appointed to the post of Assistants nor were they entrusted with the duties of the said post and that the

petitioners were paid emoluments admissible to the post of Helper and Volunteer respectively. It is also contended that since 1989, i.e., much before the services of the NMRs or Volunteers were regularised, the qualification for the post of Assistant (Shroff) was prescribed to be pass in Intermediate and since none of the petitioners held that qualification, the question of their being considered for the post of Assistant does not arise. It was also pleaded that the persons who were appointed or absorbed as Assistants, held the qualifications, discharged their functions, and were paid emoluments attached to that post, before absorption.

11. Sri V. Jagapathi, learned Counsel for the petitioners, submits that though the 1st petitioner was inducted into service as Helper and the 2nd petitioner as Volunteer (Attender), they were entrusted with the duties of Assistants. According to him, the qualification for the post of Shroff, when the petitioners joined the service, was the one provided for in G.O. Ms. No. 1350, dated 2-8-1978, i.e., pass in SSC. The learned Counsel submits that though the qualification was revised under G.O. Ms. No. 1060 dated 24-10-1989, the revised qualification cannot be applied to the case of the petitioners since they joined the service much earlier. He contends that pursuant to the interim orders passed by this Court, the respondent had continued the petitioners in the post of Assistant with the scale attached to it and they need not be disturbed at this stage.

12. Sri A.K. Jayaprakash Rao, learned Standing Counsel for the TTD, on the other hand, submits that once the petitioners have been engaged as NMR/Volunteer and were entrusted with the duties of Helper/ Attender, they do not have any right to be appointed as Assistants. It is his case that the benefit under G.O. Ms. No. 296, dated 19-4-1998 or G.O. Ms. No. 391, dated 6-5-1991 does not cover the aspects of qualification and the Rules prevailing as on the date of absorption or regularisation of temporary employees have to be taken into account. Inasmuch as the regularisation/ absorption of the petitioners was done subsequent to 1989, it is the qualifications that were then in force that have to be followed. The learned Standing Counsel submits that the petitioners do not possess the qualifications, nor were they engaged at any point of time as Assistants, much less, paid the emoluments attached to that post, and as such, the petitioners are not entitled for any relief at all. He also submits that the petitioners have been extended the relief, which in fact they were not entitled to at all, on the basis of the interim orders passed by this Court.

13. WP No. 4951 of 1993 was disposed of by this Court through orders dated 5-10-1999, It was represented before this Court that the case of the petitioner therein was considered pursuant to the interim directions granted by this Court on 18-8-1993 and he was absorbed in the post of Assistant with effect from 13-10-1993. The only prayer made to this Court at the time of hearing was that he be permitted to make a representation for regularisation of his services with effect from 30-10-1990. The writ petition was disposed of with an observation that the cause of action for the petitioner does not survive and that the order

shall not preclude the petitioner from making any appropriate representation.

14. The respondent filed a Review Petition being Rev. WPMP No. 14345/2001 stating inter alia that the case of the petitioner was not considered at all for absorption as Assistant. It was further pleaded that the extension of the pay scale admissible for that post was only as a measure of implementation of interim orders of this Court passed in WPMP, and on merits, the petitioner is not entitled to be considered for that post at all. Taking these submissions into account, the learned single Judge of this Court reviewed the order dated 5-10-1999, set aside the same and restored the writ petition to file.

15. It is not in dispute that the petitioners were inducted into service as Helper and Volunteer (Attender) respectively, on the dates referred to above. Their services came to be regularised and absorbed in terms of the G.Os., applicable to them. Both of them were extended the scales of pay admissible to the post of Attender's category viz., Rs. 740-1120. The petitioners claim that they held the requisite qualifications to be absorbed/ appointed as Assistants and for the consequential relief.

16. The petitioners have passed SSC only. Till 26-10-1989, the qualification for the post of Assistant used to be pass in SSC and thereafter it was revised to as pass in Intermediate. The learned Counsel for the petitioners contends that since the petitioners were inducted into service, may be as Helper or Volunteer, before the amendment of the Rules, they were entitled to be regularised as Assistants since they held the requisite qualification as on the date of their induction into service.

17. The plea of the petitioners cannot be accepted for more reasons than one. Firstly, G.O. Ms. No. 296, dated 19-4-1988 or G.O. Ms. No. 391, dated 6-5-1991 provided only for certain relaxations on the ban imposed by the Government. They enabled regularisation or absorption of the services of the persons who were engaged at the relevant point of time. So far as qualifications are concerned, they are always provided for under the Service Rules. Whether one calls it as absorption or regularisation, it is only through those orders that a person comes to be appointed to the cadre, whenever such appointment is made. Therefore, the qualifications prevailing as on the date of such appointment alone will govern the cases. The fact that the petitioners were working on NMR or casual basis prior to the revision of qualifications does not enable them to be considered on the basis of pre-revised qualifications.

18. Even otherwise, the petitioners can claim the relief of regularisation into the post of Assistant, if only they are able to demonstrate that they have been appointed on temporary basis against the post of that cadre or that they have been paid emoluments admissible for that post. None of the petitioners were engaged against such post. It is not in dispute that they have been extended the emoluments permissible for the posts of Helper or Volunteer and that they were never paid the emoluments permissible for the post of Assistant. The averments

made in this context in the counter-affidavit remained unrebutted.

19. Certain submissions were made by the learned Counsel for the petitioners on the basis of some proceedings. In one of the proceedings, the 1st petitioner was directed to assist his Officer. From this, the learned Counsel wants this Court to draw a presumption that the petitioners can be deemed to have been entrusted with the functions of an Assistant. He did not realise the fact that apart from the petitioners, certain other regular employees, who held various categories of posts, were also directed to assist the same Officer. The submission of the learned Counsel for the petitioners in this regard does not deserve to be accepted at all.

20. The petitioners have drawn similarities by comparing themselves with certain employees, who were initially regularised as Helpers and came to be appointed to the post of Assistant later. In the counter-affidavit, the respondent has categorically stated that the persons named by the petitioners held the requisite qualifications for the post of Assistant, they have been discharging the functions of Assistant and that they were paid the emoluments for the said post. No serious attempt is made to dispute these statements. Therefore, the petitioners cannot compare themselves with the persons who are differently situated.

21. It is rather unfortunate that the interim orders passed by this Court directing the respondent to continue the petitioners as Assistants, if they are functioning as such, were treated as positive directions and scales of pay permissible to the post of Assistant were extended to them, for the first time after the orders of this Court, claiming, to be as a measure of implementation of the said orders. It reflects either an absolute lack of basic understanding of English language, or a deliberate extension of the relief to the petitioners, under the guise of the orders of this Court. Either way, it is totally unwarranted. A situation is brought about wherein the petitioners were extended the relief by mis-interpreting the interim order of this Court; which the petitioners would not have been entitled to, even if the writ petitions were to have been allowed.

22. Viewed from any angle, the relief claimed by the petitioners cannot be extended to them. The cases of the petitioners were considered in accordance with the relevant G.Os., and their services were regularized or, as the case may be, absorbed, against the posts, which they squarely fit in.

23. The writ petitions are accordingly dismissed. There shall be no order as to costs.