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**(1996) 03 AP CK 0016**  
**In the Andhra Pradesh High Court**  
**Case No : Writ Petition No. 8641 of 1995**

T. Gurava Reddy

APPELLANT

Vs

Commissioner of Endowments and Others

RESPONDENT

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**Date of Decision :** 06-03-1996

**Acts Referred:**

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Office  
Holders and Servants Conditions of Service Rules, 1983 — Rule 9

**Citation :** (1996) 2 ALT 918

**Hon'ble Judges :** V. Bhaskar Rao, J

**Bench :** Single Bench

**Advocate :** P.S. Narayana and D. Ramesh, for the Appellant; C.B. Ram Mohan Reddy, for the Respondent

**Final Decision :** Dismissed

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## Judgement

V. Bhaskar Rao, J.—The petitioner in this writ petition has been working as Attender in Sri Kalahasteeswaraswamy Devasthanam, Srikalahasti, Chittoor District. He attained the age of 60 years in the month of June, 1995. The second respondent issued the impugned proceedings dated 6-4-1995 intimating to the petitioner that he was due to attain the age of superannuation by the end of June, 1995 and hence to retire accordingly. The petitioner challenged the above proceedings on the ground that he is entitled to be continued upto the age of 65 years as per the rules framed u/s 100 of Act 19 of 1951.

2. It is asserted by the petitioner in paragraph 6 of the affidavit that under Rule 2 of the rules framed u/s 100 of the said Act, "no person may be appointed to hold any office unless he is not less than 25 and not more than 65 years of age". He has cited certain instances wherein this Court granted interim suspension of similar proceedings in respect of some other employees. W.P.Nos. 2381 of 1994 and 21673 of 1994 are such instances.

3. The petition is resisted by the respondents by filing a counter affidavit. The second respondent denied all the affidavit averments and contended that as per

the rules framed under the Endowments Act the servants of all the institutions have to retire on attaining the age of 58 years and those belonging to Class IV have to retire on attaining the age of 60 years. The relevant rule is extracted in the counter affidavit and it reads thus:

"Rule-9: Every person not being the holder of the hereditary office or ultharai servant shall retire on attaining the age of 58 years except in the case of attenders whose age of superannuation shall be sixty years. An Ultharai servant shall retire on attaining the age of 65 years, but if he is found physically unfit, he may be retired before attaining the age."

4. On behalf of Mr. P.S. Narayana, learned counsel for the petitioner, it is contended that some other writ petitions relating to the same question are still pending and hence the writ petition may be kept pending even if the writ petition misc. petition is disposed of. He however stated that the petitioner may be declared to be entitled for all consequential retirement benefits and this Court may direct the respondents to consider payment of such benefits to the petitioner if the writ petition is disposed of.

5. Sri. C.B. Ram Mohan Reddy learned Counsel for the 2nd respondent strenuously contended that it is Rule 9 that operates in the field and hence all employees other than Class IV employees have to retire on attaining the age of 58 years on par with any other Government servant and as far as Class IV employees are concerned, they have to retire on attaining the age of 60 years on par with other Government servants. Having perused the relevant rule; it is redress to state that the employees of Devasthanams are governed by the rules framed under the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1966. More over, this question came up for consideration before another learned Judge in W.P.No. 4754 of 1988 and batch G. Gangi Reddy and Others Vs. The Custodian-Deputy Commissioner of Endowments of Sri Swamy Hathiramjee Mutt and Others, and my learned brother Dasaradha Rama Reddy, J. disposed of the same on 19-4-1995 holding that Rule 9 of 1983 Rules relating to the age of superannuation of employees applied to all the religious institutions. This was carried in appeal to a Division Bench, which affirmed the same. The result is that the petitioner in this case who is an attender and who has attained the age of 60 years during June, 1995 should have been retired from service by the end of June, 1995 under Rule 9 of 1983 Rules. Viewed from that angle, the writ petition is devoid of any merit.

6. There was an interim direction of this Court dated 26-4-1995 as per which the petitioner even if he were continued in service beyond the age of 60 years, cannot be clothed with any rights with effect from 1-7-1995 onwards. That period, if any, will have to be treated as extended period of service and it does not confer any right upon him to continue in service, in view of my above finding that he ought to have been retired on 30-6-1995. I may have to observe here that while fixing the pension of the petitioner, the salary received by him during the extended period also will be taken into consideration while calculating the

average pay. It is heedless to say that the petitioner will be entitled to all retirement benefits.

7. For the above reasons, the writ petition is dismissed, but there will be no order as to costs.