
(1998) 04 AP CK 0020

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13993 of 1993

T.C. Lakshminarayana

APPELLANT

Vs

Tirumala Tirupati Devasthanams, Chittoor Dist. and Another

RESPONDENT

Date of Decision : 27-04-1998

Acts Referred:

Tirumala Tirupati Devasthanams Employees Service Rules, 1989 — Rule 9

Citation : (1998) 3 ALD 302 : (1998) 4 ALT 632 : (1998) 2 APLJ 146

Hon'ble Judges : S.R. Nayak, J

Bench : Single Bench

Advocate : Sri Ramesh Ranganathan, for the Appellant; Sri V. Jagapathi, for the Respondent

Judgement

1. The petitioner, unsuccessful candidate for the post of Jewellery Appraiser, has filed this writ petition assailing the validity of the appointment of the 2nd respondent as Jewellery Appraiser. The petitioner is an in-service candidate working as Yoga Administrator. The management of the temple, to fill up one post in the cadre of Jewellery Appraiser, called for applications. The petitioner, as an in-service candidate and the 2nd respondent and certain others applied for the post. The Committee constituted by the temple management prepared a list of selected candidates wherein the 2nd respondent is placed at Sl.No.1 whereas the petitioner is placed at Sl.No.4 and, on that basis, the 2nd respondent was appointed as Jewellery Appraiser.

2. Tirumala Tirupati Devasthanams Employees Service Rules, 1989 (hereinafter referred to as the Rules) govern recruitment to the post of Jewellery Appraiser. Rule 9 of the Rules was amended by issuing G.O.Ms. No. 173, Revenue (Endts.I) Department, dated 10-2-1992 followed by G.O.Ms.No. 375, Revenue (Endts. III) Department, dated 264-1994 and by way of these amendments, after clause (vii), the following clause was inserted as clause (viii) under Rule 9 of the Rules. The said clause (viii) reads as under:

"(viii) Persons acquiring higher qualifications in any field and working in any

other sections or departments shall be appointed by transfer as and when vacancies arise within the management of the TTD as first priority."

Rule 9(i) provides that the method of recruitment for appointment, qualification of the age prescribed for various posts shall be as specified against each post in Annexure-II to the Rules. Entry 13 deals with appointment to the post of Jewellery Appraiser. Before the aforementioned amendment, the post of Jewellery Appraiser could be filled up only by way of direct recruitment. Four qualifications have been prescribed for the post of Jewellery Appraiser. A candidate to the post must have passed S.S.C. or its equivalent examination; must have practical experience of not less than 10 years in evaluating gems, gold, silver etc.; must possess proficiency certificate given by any reputed concern in the testing of precious stones, gold and gold articles studded with stones etc. and must have not completed 45 years of age. The inserted clause (viii) to Rule 9 provides that persons acquiring higher qualification in any field and working in any other sections or departments shall be appointed by transfer as and when vacancies arise within the management of the T.T.D. as first priority. However, in G.O.Ms.No. 375, Revenue (Endts. III) Department dated 26-4-1994 an exception is made by enacting a proviso to the inserted clause (viii) stating that clause (viii) will be applicable to the electrical section, engineering service branch when no other candidate is available in the feeder category with the requisite qualifications/ service for the purpose of appointing the category of the Assistant Engineer (Electrical). In other words, the proviso to clause (viii) provides that when the temple administration proceeds to fill up the post of Assistant Engineer and if there are no eligible candidates in the feeder category, it should give priority to the personnel in the feeder category and the post of the Assistant Engineer (Electrical) cannot be filled up by way of transfer. In respect of all other posts the inserted rule contained in clause (viii) is applicable. It is not the case of the management of the temple that the petitioner is not qualified to be considered to the post of Jewellery Appraiser. In fact, the petitioner was also selected and his name was included in the select list at Sl.No.4. If that is so, the management of the temple should have appointed the petitioner as mandated under clause (viii) of Rule 9 by way of transfer because the 2nd respondent admittedly was not an in-service candidate. On that short ground, the petitioner is entitled to succeed in this writ petition. Certain other contentions are also raised to assail the validity of the appointment of the 2nd respondent. They relate to the 2nd respondent not possessing the prescribed qualification. But, I do not find any necessity to deal with those questions because the petitioner, admittedly, is qualified to be considered for the post of Jewellery Appraiser and he is entitled to receive preferential treatment as contemplated under clause (viii) of Rule 9 of the Rules.

3. In the result, I allow the writ petition, and the proceedings of the first respondent appointing the 2nd respondent as the Jewellery Appraiser, dated 9-4-1993 are quashed. The first respondent is directed to consider the case of the petitioner for appointment to the post of Jewellery Appraiser and if he is

found to possess all the prescribed eligibilities and qualifications, then to appoint him to the post of Jewellery Appraiser.

4. This direction shall be carried out within a period of one month from the date of receipt of a copy of this order. No costs.