

(2001) 01 AP CK 0043
In the Andhra Pradesh High Court
Case No : WA No. 1801 of 1998

Tirumala Tirupathi Devasthanams, Tirupathi, Chittor District	APPELLANT
Vs	
T.C. Laxminarayana and another	RESPONDENT

Date of Decision : 20-01-2001

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987
— Section 153
Tirumala Tirupati Devasthanams Employees Service Rules, 1989 — Rule 9

Citation : (2001) 2 ALD 63 : (2001) 1 ALT 715

Hon'ble Judges : S.B. Sinha, C.J; B. Subhashan Reddy, J

Bench : Division Bench

Advocate : Mr. Adinarayana Raju, for TTD, for the Appellant; Mr. V. Jagapathy, for the Respondent

Judgement

S.B. Sinha, CJ.

1. This appeal is directed against a judgment dated 27-4-1998 passed by a learned single Judge in WP No.13993 of 1993 whereby and whereunder the writ petition filed by the first respondent herein was allowed. The writ petitioner-respondent in his petition sought for a writ of mandamus declaring the action of the appellant herein in not appointing him as Jewellery Appraiser as arbitrary and illegal and for a consequential direction to the appellant herein to appoint him as Jewellery Appraiser with effect from 9-4-1993 with all consequential benefits after setting aside the order of appointment of the 2nd respondent herein as Jewellery Appraiser on 9-4-1993 as arbitrary and illegal.

2. Having regard to the question of law which arises for consideration in this writ appeal, it is not necessary to state the facts of the matter in great details. Suffice it to point out that the writ petitioner had at all material times was working under the appellant herein as Yoga Administrator. A post in the cadre of Jewellery Appraiser fell vacant in the year 1991. Both the respondents herein applied for the said post. It is not in dispute that the matter relating to recruitment is

governed by the TTD Employees Service Rules, 1989 (the Rules, for brevity) framed in terms of A.P. Charitable and Hindu Religious Institutions Endowments Act, 1987 (the Act, for brevity). It also stands admitted that the last date of filing the applications was February, 1991. No interview took place for some reason or the other for a long time and the interview of the candidates was held on 7-4-1993 in terms of a letter dated 31-3-1993 issued by the appellant in that regard.

3. The Governor of Andhra Pradesh in exercise of the power conferred upon him under the Act issued G.O. Ms. No.173 Revenue (Endts.I) Department dated 10-2-1992 whereby and whereunder a new rule was inserted, which is to the following effect:

"9(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."

4. It is, therefore, not in dispute that the aforementioned rule is a statutory rule. In the selection process, a select list was prepared wherein the first respondent herein was placed at S.No.4 whereas the 2nd respondent herein was placed at S.No.1 and he was appointed. The first respondent herein, thereafter, filed the writ petition.

5. The learned single Judge having regard to the phraseology used in the amended rule held-

".....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."

6. Mr. M. Adinarayana Raju, learned Counsel appearing on behalf of the appellant herein has raised a short question in support of the appeal. The learned Counsel submits that having regard to the fact that the selection process started with effect from the last date of filing of the applications therefore i.e., that being in February 1991, the amended rule will have no application in the instant case. In support of the said contention, strong reliance has been placed upon Ashok Kumar Sharma and Others Vs. Chander Shekhar and Another, .

7. There cannot be any doubt whatsoever, having regard to the various decisions of the Apex Court, that rules which would normally be applicable for selecting a candidate would be the one prevailing as on the date of initiation of the selection process, which would be the last date for filing of the applications. However, in our opinion, the candidates have different rights at different stages of the selection process. The candidates, thus do not have any indefeasible right.

8. If by reason of a subsequent amendment, the selection process itself becomes redundant, the question of applying the aforementioned principles as laid down

in Ashok Kumar Sharma's case (supra), would not arise. By reason of G.O. Ms. No.173, dated 10-2-1992 whereunder the amended Rule, being Rule 9(viii) of the Rule, has come into force, a person acquiring higher qualification as on 10-2-1992 derives a legal right to be appointed by transfer as the said vacancy exists on the date of coming into force of the said rule. Admittedly the vacancy which arose in 1991 for one reason or the other was not filled up for a long time. In this situation, we are of the opinion that a literal interpretation of the said rule would cause undue hardship and defeat the purpose for which the same was made.

9. The said rule is beneficial in nature and this must be construed liberally. The reason and object of making the said rule is apparent inasmuch as by reason thereof an in-service candidate is conferred with a right to be appointed by way of first priority.

10. It may be true that the vacancies might have arisen at an earlier date. But the question which falls for our consideration is whether the amended rule has to be applied in relation to the vacancies which were to be filled up only after the rules came into force. It is not a case whereby and whereunder a change is sought to be made in the qualification acquired by a candidate by amending the rule. In the instant case, by reason of the amendment, merely priorities were fixed. Once such priorities are fixed, by reason of the amended statutory rule, the same must be construed in favour of an in-service candidate keeping in view the principles of purposive construction of statutes.

11. In *Ananta Kumar Bej v. State of West Bengal* 1999 (4) SLR 661, it was noticed--

".....The Court while interpreting the provision of a statute, although, is not entitled to re-write the statute itself, is not debarred from "ironing out the creases." The Court should always make an attempt to uphold the rules and interpret the same in such a manner which would make it workable. It is also a well settled principles of law that an attempt should be made to give effect to each and every word employed in a statute and such interpretation which would render a particular provision redundant or otiose should be avoided."

12. It is now a well settled principles of law that when two interpretations are possible, effect should be given to the one which would advance the cause and purpose for which the same was enacted.

13. As by reason of the amended rule, the in-service candidates were to have priority in the matter of appointment, we are of the opinion that the learned single Judge cannot be said to have committed an error in passing the impugned judgment.

14. There is another aspect of the matter, which also requires consideration.

15. The rules were enacted for the purpose of giving effect to the provisions of the Act, as would appear from sub-section (1) of Section 153 of the Act. The

employees of a religious endowment like the appellant must be manned by trusted persons. The in-service candidates are tested ones by the Management and having regard to that aspect of the matter only, the rule was amended. In any event, there cannot be any doubt whatsoever, that the rule was amended for the purpose of conferring benefit upon in-service candidate.

16. We may also note that the affected person viz., the selected candidate, the 2nd respondent herein, has not preferred any appeal and has accepted the judgment of the learned single Judge.

17. For the reasons aforementioned, we do not find any merit in the appeal and it is accordingly dismissed. No costs.