

APHC010260882012



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3457]

MONDAY, THE FOURTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 34299/2012

Between:

1.J.S.V.PRASAD,, S/O.LATE GOPAIAH, AGED ABOUT 39 YEARS,
OCC: ATTENDER (UNDER REVERSION), SRI THIRUPATAMMA
AMMAVARI DEVASTHANAM, PENUGANCHIPROLU (V&M), KRISHNA
DISTRICT.

...PETITIONER

AND

- 1.THE GOVERNMENT OF ANDHRA PRADESH, REP.BY THE
COMMISSIONER OF ENDOWMENTS, ENDOWMENT
DEPARTMENT, BOGGULAKUNTA, HYDERABAD.
- 2.THE EXECUTIVE OFFICER, SRI TIRUPATAMMA AMMAVARI
DEVASTHANAM, PENUGRANCHIPROLU(V&M) , KRISHNA
DISTRICT.
- 3.SRI TIRUPATAMMA AMMAVARI DEVASTHANAM, REP.BY ITS
CHAIRMAN, BOARD OF TRUSTEES, PENUGRANCHIPROLU (V&M),
KRISHNA DISTRICT.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus, a) Declaring the proceedings of the 2nd Respondent in R.C.No. B1/788/2009 dt. 08.10.2012 as arbitrary, illegal, contrary to law and provisions contained in Sec. 29,35, 41 of Act 30/87 and the Andhra Pradesh Charitable and Hindu Religious Institution and Endowment Office Holders and Servant Service rules 2000 and set aside the same, b) and consequentially declare that the Petitioner is entitled to be continued as Attender at the 3rd Respondent institution in pursuance of proc.in R.C.No.B1/788/2009 dt.10.12.2009 of the 2nd Respondent and is entitled for all consequential service benefits there upon at the 3rd Respondent institution i.e. Sri Thirupatamma Ammavari Devasthanam, Penugranchiprolu V&M) , Krishna District.

IA NO: 1 OF 2012(WPMP 43621 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Suspend the proceedings of the 2nd Respondent in R.C.No. B1/788/2009 dt. 08.10.2012

IA NO: 1 OF 2013(WVMP 325 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim orders dt: 02/11/2012 made in WPMP.No.43621/ 2012 in WP.No. 34299/ 2012 and pass

IA NO: 1 OF 2015(WPMP 10653 OF 2015)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to implead the State of Andhra Pradesh; rep. by its Principal Secretary, Revenue (Endowments Department), Secretariat Buildings, Hyderabad as Respondent No.4 in Writ Petition No.34299/ 2012 and in W.P.M.P. No.43621 / 2012 in the interest of Justice

IA NO: 2 OF 2015(WPMP 49473 OF 2015)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim suspension orders passed in W.P.M.P.No.43621/2012 in W.P.No.34299/2012 dated 02.11.2012 and dismiss the writ petition as devoid of merits and pass such other order / orders

Counsel for the Petitioner:

1. JESHTADI SUNIL KUMAR

Counsel for the Respondent(S):

1. K MADHAVA REDDY (SC FOR ENDOWMENTS AR)
2. KOTESWARA RAO KAPPERA SC For Endowments
3. GP FOR ENDOWMENTS
4. ELEVATED AS JUDGE

ORDER:

1. The petitioner is aggrieved by the proceedings dated 08.10.2012 issued by the 2nd respondent, which cancel the appointment of the petitioner as an Attender.

2. The petitioner's father was working as a cow keeper in the 3rd respondent Devasthanam and served for about six years. The petitioner's father passed away on 03.05.2000 while in service of the respondent No.3. Soon after, the petitioner was initially engaged as a casual labourer on a daily wage basis. Thereafter, the petitioner was paid consolidated monthly payment of Rs.1,200/-, which was increased to Rs.1,500/- per month with effect from 03.03.2007. The petitioner completed SSC in the year 1991 and submitted a representation dated 13.09.2009 to the Executive Officer of respondent No.3, requesting appointment as an Attender in an existing regular vacancy earmarked for the Scheduled Castes. The Board of Trustees of respondent No. 3 passed a resolution on 13.11.2009, resolving to appoint employees working who had been working for several years on a regular basis, subject to their eligibility. The 2nd respondent, in pursuance of the said resolution, issued proceedings dated 10.12.2009, duly appointing the petitioner as an Attender in the existing vacancy earmarked for a Scheduled Caste candidate. The petitioner has been working ever since the said regular appointment. However, the 2nd respondent, *vide* proceedings dated 10.08.2012, also issued orders implementing the contributory pension scheme, which was made applicable to the petitioner, as applicable to the regular employees of the

temple. While things stood thus, the 2nd respondent issued a notice dated 21.09.2012 calling upon the petitioner to explain as to why his appointment as an Attender ought not to be cancelled.

3. The petitioner submitted his response on 27.09.2012, and thereafter, the 2nd respondent issued the impugned proceedings dated 08.10.2012 proposing to cancel the appointment of the petitioner.

4. The learned Senior counsel appearing for the petitioner submits that the impugned proceedings refer to non-adherence to Rule 46 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowment's Office Holders and Servants Service Rules, 2000. It is pointed out that the respondents, in their counter, have also referred to the said rule and stated that there was no sanctioned vacancy.

5. Attention of this Court is drawn to Rule 36 onwards in the said Rules, which are applicable to the institutions mentioned as special institutions. Eight institutions are enlisted under Rule 35, and from Rule 36 onwards, the provisions are applicable only to the institutions referred to therein. It is also submitted that the name of the institution in which the petitioner was initially appointed does not find place among the eight institutions referred to in the Rules. The appointment order specifically refers to the appointment of the petitioner as an Attender in an existing vacancy earmarked for a Scheduled Caste candidate, and the time scale was also fixed along with usual allowances. During the pendency of the writ petition, the petitioner was also

promoted as a Record Assistant and extended all the allowances attached to the said post, *vide* proceedings dated 25.04.2017. It is submitted that the counter submitted by the respondents speak contrary to the order of appointment, and that the respondents have simply relied upon non-adherence to Rule 46, contending that any vacancy to be filled by the direct recruitment must undergo the regular recruitment process and that the appointment of the petitioner is contrary to the Rules.

6. The learned Assistant Government Pleader representing respondent Nos.1 and 2 also submits that the 2nd respondent temple is managed by the Executive Officer in the cadre of Joint Commissioner and has an income of more than Rs.10,00,000/- and that, for the purpose of filling up the vacancies, the respondents are required to follow the procedure laid down for recruitment. It is further submitted that the appointment of the petitioner is contrary to the laid down procedure.

7. Heard the learned Senior counsel appearing for the petitioner, the learned Assistant Government Pleader appearing for respondent Nos.1 and 2, and the learned Standing counsel appearing for respondent No.3. Perused the record.

8. The short point for consideration is whether the service of the petitioner can be unsettled after a lapse of fourteen years. The service of the petitioner is not in dispute, and the appointment of the petitioner is also not in dispute. It is pertinent to note that the requirement of filling up the posts with eligible

candidates was approved by the Board of Trustees of the 3rd respondent temple. The petitioner was initially engaged on a casual basis on compassionate grounds, and subsequently, his appointment was regularized in pursuance of the proceedings dated 10.12.2009. The Joint Commissioner and the Executive Officer of the 3rd respondent temple had categorically referred to an existing vacancy against which the petitioner was appointed. This would amply clarify that the stand taken by the respondents that there was no vacancy for passing the said proceedings of appointment is contrary to the record. The appointment of the petitioner was also approved by the Commissioner of Endowments, and as such, the respondents cannot issue proceedings that are contrary to the record.

9. The learned Assistant Government Pleader further submits that the 1st respondent had, in fact, *vide* proceedings dated 27.04.2007, permitted the filling up of the post of cow keeper as per the Rules, and that the 3rd respondent had not followed Rule 46. The appointment order specifically refers to the proceedings issued by the Commissioner granting permission to fill up the post, and such proceedings were issued after considering the report of the Devasthanam. The proceedings referred to by the Assistant Government Pleader, dated 27.04.2007, are neither before this Court nor filed along with the counter.

10. In pursuance of the interim directions passed by this Court dated 02.11.2012, the petitioner continued to serve as an Attender. Considering the subsequent promotion granted to the petitioner, *vide* proceedings dated

25.04.2017, this Court finds no grounds to unsettle the service of the petitioner. Accordingly, the impugned proceedings dated 08.10.2012 are hereby set aside.

11. With this observation, the present writ petition is allowed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE HARINATH.N

Date:04.05.2026

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THE HONOURABLE SRI JUSTICE HARINATH.N

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Date: 04.05.2026

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