SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

K. Siddaiah Vs. the Executive Officer, Tirumala Tirupathi Devasthanams and anr.

K. Siddaiah Vs. the Executive Officer, Tirumala Tirupathi Devasthanams and anr.

SooperKanoon Citation : sooperkanoon.com/432609

Court : Andhra Pradesh

Decided On : Sep-26-1989

Reported in : 1991(2)ALT184

Judge : Sardar Ali Khan, J.

Acts : Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966 - Sections 86(5); Constitution of India - Article 226

Appeal No. : Writ Petition No. 19527 of 1988

Appellant : K. Siddaiah

Respondent : The Executive Officer, Tirumala Tirupathi Devasthanams and anr.

Advocate for Def. : A. Gopal Rao, S.C.

Advocate for Pet/Ap. : M. Ramachandra Reddy, Adv.

Disposition : Petition dismissed

Judgement :
ORDER

Sardar Ali Khan, J.

1. The petitioner joined the service of Tirumala Tirupathi Devasthanams (T.T.D.) in the year, 1960 as a Shroff. He was promoted as a Lower Division Clerk in 1964 and as an Upper Division Clerk with effect from 10-4-1970 and further promoted to the post of Superintendent with effect from 3-4-1980. In the year 1986 when he was working as the Superintendent in Vykuntam Complex, a complaint was filed against him alleging that he collected a sum of Rs. 875/- without issuing the tickets. On the report of the Vigilance Guard Officer of T.T.D. he was placed under suspension pending enquiry and framing of charges. Later on, a charge memo was issued by the Executive Officer, T.T.D. to which he was asked to submit his explanation within seven days. He gave his explanation on 11-9-1986 and also refunded the amount of Rs. 350/- which was received by him. A provisional conclusion order dated 18-4-1987 was issued to the petitioner to which he offered his explanation on 29-4-1987. This provisional conclusion order was to remove him from service. However, the order of removal was passed by the Deputy Executive Officer, on 24-6-1987. Against the said removal order the petitioner filed W.P. No. 11391/87 contending inter alia that the competent authority to initiate disciplinary proceedings in respect of employees of T.T.D. of the Cadre of Superintendent is the Board of Trustees and not the Executive Officer. It was also contended that as per G.O.Ms. No. 1351 dt. 2-8-78, under Rule 5 all powers vested in the Head of Department shall be exercised by the Board of Trustees, in respect of office holders and servants whose salary is Rs. 250/- and above. The petitioner was drawing a basic pay of Rs. 1090/- on the date of the order of removal passed against him. A learned single Judge of this Court was pleased to pass an order on 14-10-1987 in W.P. No. 11391/87, allowing the Writ Petition on the ground that the Executive Officer has not passed the impugned order and the Deputy Executive Officer had no competency in law to pass the said order. The above judgment was confirmed in Writ Appeal No. 1539/87 giving option to the T.T.D. to take appropriate action to ensure that the order is passed by the competent authority.

2. Since the judgment in W.P. No. 11391/87 was not implemented the petitioner filed Contempt Case No. 36 of 1988. After filing of the Contempt Case referred to above, the proceedings in Roc. No. DAI/59855/ 87 dated 23-1-1988 were passed placing the petitioner under suspension in exercise of powers under Rule 13(4) of

C.C.A. Rules. The petitioner responded to such an order by filing another writ petition, W.P. No. 1322 of 1988, which was dismissed on 3-2-1988, The matter was carried in appeal in W.A. No. 358 of 1988 and the order was modified to the effect that the petitioner may be reinstated pending enquiry and his salary and emoluments may be paid. The petitioner was consequently reinstated to duty on 16-3-1988 and the Contempt Case was closed with an observation that there is no need to pass any further order in the same. Nevertheless, the enquiry initiated against the petitioner was pursued on several dates and finally the impugned order dated 26-12-1988 in Roc. No. DAI/59855/87 was passed removing the petitioner from service. The present Writ Petition is filed challenging the order of removal dated 26-12-88.

3. The main contention raised by the learned counsel for the petitioner is that the order of removal in question has been passed by the Executive Officer, who has jurisdiction to initiate or take any disciplinary action against an employee of the T.T.D. who is drawing more than Rs. 250/- basic pay. In other words, what is contended is that the power to initiate disciplinary proceedings and take action against the petitioner is vested with the Board of Trustees and has not been delegated to the Executive Officer empowering him to pass such order of removal. It is further contended that under the rules framed in G.O.Ms. No. 1351 dated 2-8-78, under the provisions of Act 17 of 1966, the Board of Trustees is empowered to take action against the employees whose salaries are Rs. 250/- and above per month and in all other cases the Executive Officer of the T.T.D. is empowered to take disciplinary action.

4. In order to examine the intrinsic merit of the submission made by the learned counsel for the petitioner, it is necessary to examine some of the provisions of the A.P. Charitable & Hindu Religious Institutions & Endowments Act, 1966 (Act 17 of 1966). It may be seen that in exercise of the powers conferred under Sub-section (5) of Section 86 of Act 17 of 1966, the T.T.D. Board of Trustees has delegated certain powers vested in them to the Executive Officer by virtue of their resolution dated 17-11-1978 which is in the following terms:

'(a) Powers to appoint and to inflict all punishments upto and inclusive of the Assistant Engineers (at present it is designated as Deputy Executive Engineers) and other equivalent cadres are delegated to the Executive Officer. The Executive Officer will also be delegated with powers to inflict minor punishments on higher category officers also. Rest of the powers will vest in the Board.'

5. By virtue of resolution No. 482 dt. 22-8-1989 it is provided that the Executive Officer is now exercising the powers as per the above delegation, pending issue of new rules or delegation of powers if necessary under the present Act 30/87. It seems that under the new service rules which are to be framed under Act 30/87, a provision is made investing the Executive Officer as the appointing authority in respect of all the posts except the posts for which Government is the appointing authority, to enable him to exercise the powers to impose punishments as appointing authority as per the C.C.A. Rules or A.P. State and Subordinate Service Rules.

6. The crucial aspect of Resolution No. 1482 dt. 22-8-1989 is that sending finalisation of the T.T.D. Service Rules, the Board of Trustees has decided to continue the delegation of powers to the Executive Officer under Act 30/87 for smooth running of the administration. It is beyond any doubt that the delegation of powers to the Executive officer under Sub-section (5) of Section 86 is unexceptionable and the learned counsel for the petitioner has also stated that there is nothing wrong with the delegation which has been made under the 1966 Act. The delegation so made continues to be in force even under the 1979 Act. It may be mentioned that under 1979 Act there is a provision for constitution of a Committee under Section 6, consisting of the Chairman, the Commissioner, the Executive Officer and two other members of the Board. Section 7 provides for the powers and functions of the said Committee. Under Section 7 (v) the Committee shall exercise the general superintendence and control over the administration of the T.T.D. Section 7 (vii) further provides that the Committee may, subject to such conditions and restrictions as it may lay down, delegate to the Executive Officer such of the powers conferred on it by or under the Act, as it may consider necessary. Therefore, through proceedings Roc. No. B1/ 1352/80 dt. 7-4-1980, the Committee resolved to delegate certain of its powers to the Executive Officer, and

the Committee has delegated the power to appoint and inflict punishments to the Executive Officer. In para 3 of the said proceedings, it is stated 'the delegations previously made and which are not covered by these proceedings to the extent they are not inconsistent with the provisions of the Act 20 of 1979 and the Rules framed thereunder shall stand.'

7. The object of citing the above resolutions is to show that the delegation originally made under 1966 Act has continued to be in force under 1976 Act. The same delegation in favour of the Executive Officer continues to be in force by virtue of the resolution No. 482 dt. 22-8-89 which has been referred to in extensor in this judgment. Therefore, I do not see any force in the contention of the [earned counsel for the petitioner that there has been no valid delegation under 1987 Act in favour of the Executive Officer to take disciplinary action and pass the order of removal against the petitioner. It may also be mentioned that such delegation of powers has been upheld in two judgments of this Court. In W.P. No. 17745/87 a learned single Judge had taken the view that there is a valid delegation of power in favour of the Executive Officer. Later on in W.A.No. 1742/87 a Division Bench of this Court has similarly upheld the delegation in favour of the Executive Officer in clear and unmistakable terms and the judgment in W.P. No. 17745/87 dt. 25-11-1987 holding to the contrary was set aside in W.A.No. 1742/87. In view of the above said decisions, there is no room for any argument that there has been no valid delegation in favour of the Executive Officer to take action against the Officers who are drawing more than Rs. 250/- per month.

8. The other submission made by the learned counsel for the petitioner is that in G.O.Ms. 1351 dt. 2-8-78 it is provided that all powers vested in the Head of the Department shall be exercised by the Board of Trustees in relation to office-holders and servants whose salary is Rs. 250/- and above per month and in all other cases by the Executive Officer of the T.T.D. But, it is significant to note that G.O. Ms. No. 1351 dt. 2-8-78 has been promulgated under Section 107 of Act 17 of 1966, which authorises the Government to make the rules for carrying out all or any of the purposes of the Act. The said rule has nothing to do with the question of delegation of power to the Executive Officer. Under the Rules, the Executive Officer may be authorised to take disciplinary action against the Officers who are

drawing less than Rs. 250/- per month. But, by virtue of the delegation which has been made in Roc. No. B1/40354/78 dt. 28-11-1978, he is invested with the power to take action against all such Officers who come within the purview of delegation of powers vested in him. It may also be stated that under Section 109 of the A.P. Charitable & Hindu Religious Institutions & Endowments Act, 1987, the Executive Officer is the recipient of certain powers directly from the legislature and has been authorised to delegate such powers under Section 109 (2) in favour of the Joint Executive Officer or Special Grade Deputy Executive Officer. But that question need not be gone into for the purpose of this writ petition in which the only point which has been argued is the question of delegation in favour of the Executive Officer. Apart from the question of delegation the learned counsel for the petitioner has not made any other submissions assailing the validity of the impugned order.

9. In view of the foregoing discussion and the decisions indicated above, I am of the view that the delegation made under 1966 Act continues to be in force as evidenced by Resolution No. 482 dt. 22-8-1989 in favour of the Executive Officer, and there is no illegality attached to the order of removal which is impugned in this Writ Petition.

10. The Writ Petition is, therefore, dismissed. But in the circumstances of the case, there will be no order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com