

APHC010143322007

[3506]



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

WRIT PETITION NO: 13045 of 2007

K.Naveneetham and Others ...Petitioner(s)
Vs.
The Government Of Andhra Pradesh Rep by Its ...Respondent(s)
Secretary and Others

Advocate for Petitioner: Mr.K R PRABHAKAR
Advocate(s) for Respondent(s): Mr.T VENU GOPAL
SC FOR ENDOWMENTS
(RAYALASEEMA REGION),
GP FOR ENDOWMENTS (AP),
Mr.ARAVALA RAMA RAO
(SC FOR APSRTC)

CORAM :SRI JUSTICE CHALLA GUNARANJAN

DATE : 9th April 2026

ORDER:

Present writ petition is filed questioning the inaction of respondents in granting pensionary benefits to the petitioners for the service rendered with 3rd respondent – Devasthanam to be illegal, arbitrary and contrary to G.O.Ms.No.680, Revenue (Endts.III) Department, dated 15.07.1987 and consequently to direct the respondents to pay the pensionary benefits with all consequential benefits.

2. (a) Petitioners stated to have been initially joined in the transport wing maintained by 3rd respondent Devasthanam as

drivers, conductors, mechanics, attenders etc. It is stated that they were extended revised pay scales, granting HRA and other increments. Initially, the employees of 3rd respondent Devasthanam were not covered by pensionary benefits. By virtue of G.O.Ms.No.201, dated 12.02.1982, the Government has issued orders, thereby, the employees working in eight temples, including 3rd respondent temple were directed to be extended the pay scales, HRA, TA, LTC, Family Planning Incentives, Surrender Leave, Medical Reimbursement, Promotions and Extension of Fundamental Rules as applicable to the Government employees and to that extent, Rules be framed under Section 31(3) of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1966.

(b) Subsequently, the Government had issued G.O.Ms.No.680, Revenue (Endts.III) Department, dated 15.07.1987, to even extend the benefit of revised pension Rules, 1980, with effect from the year 1982 to the employees of various Devasthanams, also included the 3rd respondent Devasthanam. That being so, the transport wing of 3rd respondent Devasthanam was proposed to be merged with 4th respondent Corporation as it was felt that the Devasthanam was not in a position to handle the operations

any further and therefore, vide G.O.Ms.No.977, dated 30.09.1989, the Government had ordered for transfer of the transport wing of the 3rd respondent Devasthanam to the 4th respondent Corporation w.e.f. 01.10.1989.

(c) All the petitioners eventually stated to have been transferred and got absorbed in the services of 4th respondent Corporation. Petitioners have joined the services of 4th respondent Corporation and majority of them have attained age of superannuation, and at that juncture, representation dated 13.06.2006 was made to the Secretary, Endowments Department, ventilating the grievance that they were deprived of pensionary benefits in lieu of their services being absorbed in 4th respondent Corporation and therefore, requested for grant of pension for the services rendered in 3rd respondent Devasthanam. As there was no response to the said representation, petitioners chose to file present writ petition.

3. (a) Initially, the writ petition was preferred against respondents 1 to 3, however, when the 3rd respondent Devasthanam has taken objection regarding non-joinder of necessary parties, 4th respondent Corporation was sought to be impleaded vide I.A. No.1 of 2024, which eventually came to be

ordered on 19.06.2024. Both respondents 3 and 4 have filed counters opposing the prayer in the writ petition.

(b) In sum and substance, the stand of respondents has been that the transfer of petitioners was in pursuance to a tripartite arrangement between 3rd respondent and 4th respondent and the employees working in the transport department who were sought to be transferred and in pursuance to Minutes dated 29.05.1989, the terms and conditions of arrangement were agreed to, therefore, any claim much less that of granting pensionary benefits over and above what was agreed would be outside the scope of the said arrangement.

(c) Further, it has been maintained that since petitioners were not regular employees of Devasthanam and merely working in the transport establishment in different capacities, as it was felt that Devasthanam was unable to maintain the transport wing, rather than to close down the operations preferred to transfer the same to 4th respondent Corporation. After detailed deliberations with all stakeholders specific terms and conditions were arrived at, therefore, petitioners having accepted the same are now precluded from making any further claims and that too, at this belated stage and hence, urged to dismiss the writ petition.

4. Heard Sri Srinivas Bobbili, learned counsel, representing Sri K.R.Prabhakar, learned counsel for petitioners on record, learned Government Pleader for Endowments for respondents 1 to 3 and Sri Aravala Rama Rao, learned standing counsel for 4th respondent.

5. (a) Learned counsel for petitioners mainly contended that as the posts held by petitioners at the time of absorption were pensionable posts, by virtue of G.O.Ms.No.680, dated 15.07.1987, which extended pension and Death cum Retirement Gratuity (D C R G), mere absorption of their services into 4th respondent would not take away their right to claim such benefits and therefore, the 3rd respondent is under obligation to pay the pension for the service petitioners rendered before the date of absorption. To buttress aforesaid arguments, learned counsel has taken this Court to the orders passed in W.P. No.10534 of 2002, which relate to the absorption of transport wing of TTD with APSRTC, wherein the composite High Court has allowed the claim of petitioners therein for extending pensionary benefits treating their service to be that of TTD rather than APSRTC.

(b) It is also stated that the orders in aforesaid writ petition eventually came to be confirmed by Division Bench in W.A. No.1318 of 2011 and as well as by Hon'ble Apex Court in SLP (C) No.35732 of 2013 (C.C. No.10160/2012).

(c) In that view of the matter, it is urged that analogy adopted by aforesaid orders equally be extended to the case of petitioners herein in granting the pensionary benefits.

6. (a) However, opposing aforesaid submissions, both learned Assistant Government Pleader and as well as the standing counsel for 3rd respondent contended that as the petitioners were merely employed in transport wing and not in the regular vacancies in 3rd respondent Devasthanam, they cannot claim parity and further that petitioners having chosen to accept the terms and conditions of absorption in pursuance to minutes of meeting dated 29.05.1989, which clearly enumerated the benefits for which they were entitled to, they cannot now come up with new plea beyond the agreed terms and conditions.

(b) It is further contended that the benefits of pension and D C R G extended in terms of G.O.Ms.No.680, dated 15.07.1987, would enure only to the regular employees of Devasthanam, who

earlier too were not entitled to such benefits, petitioners since were not regular employees of the Devasthanam and were merely engaged in the transport wing on different capacities, question of extending the said benefits to them at any rate would not arise.

(c) Lastly, it is contended that the order of composite High Court on which much reliance has been placed was dealing with situation that petitioners therein though opted to repatriate them back to TTD, as at later point in time, after their absorption TTD has extended the pensionary benefits, though such request came to be accepted, the pensionary benefits were denied. In that background, the composite High Court had intervened and held in favour of petitioners therein. The said judgment really does not lay down any specific ratio, rather dealt with peculiar facts and circumstances of that particular case, therefore, the same would be inapplicable to the facts of present case.

7. Perused the record and considered respective submissions.

8. The controversy in the writ petition revolves in a narrow compass. Petitioners were initially engaged in the transport wing

of 3rd respondent Devasthanam in different capacities from time to time. Initially, an attempt was made to demerge or transfer the transport wing of 3rd respondent to 4th respondent Corporation way back in the year 1984 itself. Such move came to be resisted by some of the employees who intended to continue with the Devasthanam. G.O.Ms.No.1135, dated 16.07.1984, issued in that regard came to be set aside by composite High Court in W.P. No.12255 of 1984, however, on some technical flaws. Yet again, another attempt was made to transfer the said transport wing by issuing G.O.Ms.No.977, dated 30.09.1989. However, this time all these stakeholders have been consulted before issuance of aforesaid G.O.

9. As seen from the aforesaid G.O., the transfer wing of 3rd respondent came to be transferred to 4th respondent subject to terms and conditions as agreed in the minutes of meeting dated 29.05.1989. The Minutes of meeting clearly had set out and envisaged the terms and conditions on which the transfer has been affected. It is opt to refer to some of the terms and conditions necessary for present purpose.

“8. Transfer of Staff of Transport Wing: All the staff who are under active services and borne on the rolls of the Srisaila

Devasthanam Transport Wing will be offered employment in APSRTC in suitable cadres of the Corporation except in the following categories:

Category	No. of Employees
Record Assistants	5
Attendars	2
Gurkhas	3
Sweepers	3
Scavengers	1
Security Guards	2
NMR Cleaners	13
Total	29

The existing basic pay of the employees to be transferred will be protected and their pay will be fixed in appropriate scales of pay of the Corporation. The 13 NMR cleaners will however, be considered for absorption in Corporation provided they have completed 240 days of service as on the date of transfer, subject to the condition that they will be absorbed at a later date only after all surplus casual employees of the Corporation are absorbed.

9. Claiming of Seniority: The seniority of transferred shall be counted in the respective cadres of APSRTC from the date of their joining in APSRTC and their past service rendered in the Devasthanam will not be reckoned in APSRTC for the purpose of seniority.

13. Fixation of Pay Scales of 1989 on par with APSRTC: After discussions made with the APSRTC officials, the Devasthanam authorities will fix up the pay of the employees

including ministerial staff on par with the Revised pay scales of APSRTC, 1989 duly making necessary entries into the Service Registers of the individuals.

14. Payment of Gratuity, E.P.F. & Leave Salary: The Devasthanam authorities have agreed to make payment of Gratuity holding and leave salary under the provisions of Gratuity Act and A.P. Leave Rules respectively for the service rendered with the Devasthanam to the employees to be transferred till the date transfer. The PF Holdings to the credit of the transferred employees standing on the date of transfer will be transferred to APSRTC employees PF Trust under Sec.17-B of EPF Act, 1952.”

10. Even aforesaid G.O., came to be tested before composite High Court in W.P. No.11772 of 1990. While upholding the G.O., this Court had categorically held that the transfer was absolutely legal and **complied with the** requirement of Section 25FF of Industrial Disputes Act. While coming to aforesaid conclusion, the Court has examined as to whether the conditions of service of transfer of the transferred employees were in any way less favourable than what they enjoyed during service in 3rd respondent Devasthanam.

11. Upon perusing the records, a specific finding has been recorded that the 3rd respondent Devasthanam was not in a good

financial position to maintain the transport wing, therefore, a conscious decision was made to get rid of the transport wing and balancing and safeguarding of interest of workers, the idea of transferring the establishment to APSRTC came to be muted. That the salary and allowances drawn by employees in the transport wing were fully protected on transfer to APSRTC.

12. Though one of the conditions stipulated that the past service rendered prior to the date of transfer would get excluded for the purpose of promotion, it was held that the same by itself cannot be construed to be less favourable to the transferred employees as they have been now given a window of promotions to higher posts. Petitioners, therefore, were very much aware about their future prospects vis-à-vis the service conditions those would be made applicable upon transfer.

13. Condition No.13 specifically dealt with fixation of pay scales of 1989 on par with revised pay scales of APSRTC, 1989 to bring them on parity on the date of effective date, likewise, Condition No.14 dealt with payment of gratuity, E.P.F. and leave salary and it specifically contemplated that the amounts which were earlier to held by 3rd respondent Devasthanam would be transferred to APSRTC employees PF Trust in terms of 17B of Employees

Provident Fund Act, 1952. A holistic perspective of the terms and conditions of transfer would clearly go to show that the transferred employees were duly taken care of in all respects.

14. It is significant to notice that even the regular employees of 3rd respondent Devasthanam were not brought under the purview of pensionary benefits earlier to and only by virtue of G.O.Ms.No.680, dated 15.07.1987, such benefit has been extended. The initial exercise of transferring transport wing has commenced way back in the year 1984 itself. It is also to be noticed that petitioners were extended the benefit of gratuity and EPF while they were in service with 3rd respondent and such benefits have been continued and taken forward in consonance with the service conditions as made applicable to the regular employees of the 4th respondent Corporation.

15. Once petitioners got absorbed with 4th respondent Corporation, they will have to abide by the terms and conditions of service as applicable to the said Corporation and therefore, cannot claim any better right than the regular employees otherwise appointed in the said Corporation.

16. The case of employees who got transferred from TTD to APSRTC on which petitioners sought to rely on completely stand on the different footing. It was a case where petitioners were given option to choose either to continue with TTD or opt to APSRTC and at the relevant point of time, neither of the organizations had the scheme of granting pension. After petitioners chose to migrate to APSRTC, employees working in TTD came to be extended pensionary benefits, and in that context, petitioners therein were yet again given option to repatriate back to their original service. The petitioners, having given wiliness to repatriate back and even recommended to by the Commissioner of Endowments, nevertheless, the same were not acted on and pensionary benefits were not extended. In such scenario, the coordinate bench of composite High Court directed APSRTC to permit the petitioners to repatriate back to their original service and thereby, to extend the service conditions of employees of TTD for the purpose of entertaining pensionary benefits etc. and further, petitioners therein were directed to refund any other benefits which otherwise they had already enjoyed in lieu of aforesaid pensionary benefits.

17. In the present case, the facts stand on completely different footing. Petitioners have agreed to the terms and conditions of transfer, which did not contemplate any pensionary benefits rather they were only extended with the alternate benefits of gratuity and EPF on par with the regular employees of APSRTC. The transfer was given effect on 01.10.1989 and petitioners have joined the services with 4th respondent. Only either upon retirement or at the verge of retirement, they chose to make a representation for extending the pensionary benefits and that too, the tone and tenor of representation and as well as prayer made in the writ petition confined their claim to the period of service with 3rd respondent. This Court, therefore, is of the opinion that such a request is clearly belated and even otherwise, no statutory basis.

18. All the petitioners by now have retired from service and that they have also taken the benefit under Employees Provident Fund and other benefits under payment of Gratuity Act. The said scheme is in the nature of substitute for pension and even the 4th respondent Corporation in terms of its statutory rules envisages the same to its regular employees. Pension can be claimed only when it is contemplated under relevant rules and scheme has been put in place. Petitioners failed to demonstrate

any such right. Since petitioners are covered under EPF scheme, and they failed to demonstrate that they were holding pensionary post, the claim of pension by way of present writ petition deserves to be rejected.

19. In view of the aforesaid discussion, this writ petition is dismissed. No costs.

As a sequel, miscellaneous petitions pending in this case, if any, shall stand closed.

CHALLA GUNARANJAN, J
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