

B. Srinivasan

Vs

State of Andhra Pradesh

(K. Ramaswamy, D. P. Wadhwa JJ)

09.05.1997

JUDGMENT

K. RAMASWAMY, J.

1. Validity of Chapter IV of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, the "Act") was assailed on the anvil of the constitutional rights enshrined under Articles 25 and 26 of the Constitution. This Court in A.S. Narayana Deekshitulu vs. State of A.P. & Ors. [(1996) 9 SCC 548] has upheld the constitutionality thereof. However, along with other matters, direction was given to constitute a committee with the named officers to determine the payment of salary to the holders of the office on hereditary basis prior to the abolition thereof. Consequently, the Committee came to be constituted to go into the questions and it submitted its report to the Government, as per the direction of this Court, and the Government was required to consider the recommendations and in turn submit its report to this Court for further approval. Thus, the recommendations along with Government's comments/modalities suggested thereto, have been placed before us. We now proceed to dispose of the Application/Petitions.

2. The Committee has recommended the rationalisation of the pay-scales and payment of honorarium to the Archakas, Potu workers and other religious staff, Sri Pedda Jeeyangar and Sri China Jeeyangar relating to TTD. The Government's comment thereon is as under:

"The recommendation of the committee is accepted subject to allowing full freedom to revise the cadre strength, emoluments, incentives etc., to be offered to its religious staff depending on the exigency of work, administrative convenience etc."

3. It is seen that Chapter XIV is a complete code in that behalf and, therefore, the scales of pay and payment of honorarium to the Archakas Potu workers, Sri Pedda Jeeyangar and Sri China Jeeyangar would be determined as accepted by the Government. In this behalf, the following scales of pay have been given to the Archakas, Potu workers and other officer holders:

Pay Scales of Archakas etc. of TTD as approved by the State Government

Sl. No. Designation Pay Scale

1. Pradhana Archaka Rs.4400-160-5200-190-6150-230-7300-280-8700

2. Upa Pradhana Archaka Rs.3310-110-3750-130-440-150-5200-190-6150-230-6840

3. Mukhya Archaka Rs.3110-90-3200-110-3750-130-4400-160-5200- 190-6150-230-6380

4. Archaka Rs. 2375-75-2750-90-3200-110-3750-130-4400-160-5040
5. Potu Supervisor Rs. 3110-90-3200-110-3750-130-4400-160-5200-190-6150-230-6380
6. Potu Worker (Senior) Rs. 1745-40-1825-50-2075-60-2375-75-2750-90-3200-110-3420
7. Potu Worker (Junior) Rs. 1595-30-1625-40-1825-50-2075-60-2375-75-2750-90-3020
8. Cleaner Rs. 1375-25-1475-30-1625-40-1825-50-2075-60-2375

Sl. No. Resignation Honorarium

1. Tholppachar Rs. 7,500/- per annum
2. Siddanti Rs. 5,000/- per annum
3. Kotikanyakamder Rs. 1,116/- per annum
4. Acharya Purusha Rs. 5,000/- per annum per family (4 families)
5. Ratham (6 families) Rs. 1,116/- per each Ratham Festival per each family
6. Thiruchornalu Rs. 9,000/- in Lumpsum per annum to all persons performing this service
7. Dolu Rs. 9,000/- in Lumpsum per annum to all persons performing this service
8. Sannar Rs. 9,000/- in Lumpsum per annum to all persons performing this service
9. Divity Rs. 9,000/- in Lumpsum per annum to all persons performing this service
10. Flower Tier Rs. 9,000/- in Lumpsum per annum to all persons performing this service.

Sl. No. Designation Pay scale or Honorarium

1. Pedda Jeeyangar Honorarium per year subject to revision to be fixed.
2. Chinna Jeeyangar Honorarium per year subject to revision to be fixed.
3. Samars Vadyar Rs. 1745-40-1825-50-2075-60-2375-75-2750-90-3200-110-3420
4. Purohitham Rs. 2375-75-2750-90-3200-110-3750-130-4400-160-5040
5. Yamunotharai Rs. 1595-30-1625-40-1825-50-2075-60-2375-75-2750-90-3020
6. Bhashyakarulu Rs. 1595-30-1625-40-1825-50-2075-60-2375-75-2750-90-3020

7. Golla Rs. 1595-30-1625-40-1825-50-2075-60-2375-75-2750-90-3020
8. Thallapakam Rs.2375-75-2750-90-3200-110-3750-130-4400-160-5040
9. Theethavasi Rs. 1595-30-1625-40-1825-50-2075-60-2375-75-2750-90-3020
10. Bokkasamdar Rs. 2375-75-2750-90-3200-1103750-130-4400-160-5040
11. Utharaparapathyadar Rs. 1595-30-1625-40-1825-50-2075-60-2375-75-2750-90-3020
12. Kaikalanirvahaka Rs. 1595-30-1625-40-1825-50-2075-60-2375-75-2750-90-3020
13. Ramaswami Pasik Rs. 1595-30-1625-40-1825-50-2075-60-2375-75-2750-90-3020
14. Potu Store Assistant Rs.1595 -30-1625-40-1825-50-2075-60-2375-75-2750-90-3020
15. Maniamdar Rs. 1595-30-1625-40-1825-50-2075-60-2375 - 75 - 2750 - 90 - 3020
16. Paricharaka Rs. 1595 - 30 - 1625 - 40 - 1825 - 50 - 2075 -60 - 2375 - 75 - 2750 - 90 - 3020
17. Tulasi Brahmin Rs. 1595 - 30 - 1625 - 40 - 1825 - 50 -2075- 60 - 2375 - 75 - 2750 - 90 - 3020
18. Divity Man Rs. 1375 - 25 - 1475 - 30 - 1625 - 40-1825 -50 2075 - 60 - 2375
19. Sweeper Rs. 1375 - 25 - 1475 - 30 - 1625 - 40 -1825 - 50 -2075 - 60 - 2375

4. The Committee has recommended to the Government to examine the provisions of Section 142 regarding the honours to be extended as per the customs and usages to the Archakas, Peeda, Jeeyangar, China Jeeyangar, Acharyapurushas, Ekangies, Adhypakas and others. Those persons have been designated by the Committee as erstwhile mirasidaras etc. doing kainkaryams or sevas in the temples apart from giving remuneration or honorarium as recommended in the Committee's report. The Government has accepted the recommendation and, according to us, rightly.

5. The Committee has further recommended four categories of Archakas , viz. Pradhana Archakas, Upa-radhana Archakas, Mukhya Archakas and Archakas in the temples under the control of TTD, in the time-scale attached to the Deputy Executive Officer, Assistant Executive Officer, Superintendent and Senior Assistant in the Devasthanams. The Government has accepted the said recommendation subject to "provision contained in decision No.1", viz., Government's decision in the first paragraph of the recommendations which were have approved hereinabove.

6. In this behalf, Shri Thakur, their learned senior counsel, contended that the erstwhile Mirasidars held the positions in religious dignity. They cannot be classified and brought on par with the secular staff enumerated hereinbefore. It is an affront to their religious status. The erstwhile office holders appear to have misunderstood its scope. Their classification as equivalents of secular staff is only for the purpose of identifying the status and scales of pay but not with any other intention to

degenerate them. Whatever customary honours they have held prior to abolition, stood protected by Section 142 of the Act constitutionality of which has already been upheld by this Court subject to the observance of and meeting out customary honours to them. In this behalf, it is not necessary to separately reiterate the undertaking given by Shri P.P.Rao, which was made part of the judgment and assured under Section 142 of the Act.

7. Shri Thakur further contended that the classification of Archakas into four categories is without any basis and is arbitrary. We find no force in the contention. It is stated in that behalf by Shri P.P. Rao, learned senior counsel appearing for the State Government and the TTD that the hereditary Archakas have been designated in the first category and rest of them have been treated as based upon the length of service and seniority etc. We find that the Classification made by the Committee and accepted by the Government is accordingly valid. It is then contended that the fixation of the scales of pay being without any basis, is arbitrary. We directed Shri Rao to place before us the Committee report and material on the basis of which the Committee made the recommendations. On perusal thereof, we find that the fixation of the scales of pay and the classification of Archakas into four categories is perfectly valid and merits no further consideration. It is accordingly upheld. He further contended that distribution of Laddoos is inconsistent with the customary entitlement Mirasidars had prior to abolition and that, therefore, the absence of recommendation and consideration by the Government is bad in law. We find no force in the contention. Section 144 deals in that behalf with all the situations and as constitutionality thereof has already been upheld, they are not entitled to any distribution of laddoos except as is provided in the provisions of the Act.

8. The Committee has recommended three categories, out of four, of gamekars whose designations find place in the acceptance of the recommendations which were already enumerated and, therefore, their enumeration as Potu Supervisor , potu worker (Senior and Potu Worker (Junior) in the time scale of pay respectively of the secular staff is identical to their designations and the status they enjoyed in the service under the TTD. We find that the recommendations and acceptance thereof subject to para No.1 is valid. It is accordingly approved.

9. The next recommendation is that the persons possessing 8 years of service and more are to be given Potu worker (Senior scale); persons with 8 years and below of service are to be designated as Potu worker (Junior scale). Since the Government has already accepted the pay-scales and we have upheld the same, no further separate consideration is needed in that behalf. It is accordingly approved.

10. It is further recommended that incentives which are being given to Potu workers should be continued but beyond preparation of 25,000 laddus so as to enable the Potu workers to prepare maximum number of laddoos to meet the demand. This recommendation has been accepted by the Government unconditionally. We approve of the same.

11. The Committee has further recommended determination of cadre strength and grant of scale of pay to other workers, viz., Samaveda Vaidyar, Purohitham, Yamunotharai, Bhashyakarlu, Golla, Tallapaka, Theerthavasi, Bokkasamdar, Uttaraparupathyadar, Ramaswami Pasika, Maniamdar, Potu Store Assistant, Thulasi-Brahmin, Paricharakas, Divitymen, Thiruchornalu, Dolu, Sanna Dolu and Flower tiers etc. This recommendation has also been accepted by the Government subject to the limitations prescribed in para No. 1 of the recommendations referred to hereinbelow and has already been upheld by this Court. Therefore, the same stands approved.

12. Next recommendation of the Committee is determination of cadre strength and payment of

honorarium to certain other office holders, viz., Thollappachar, Sidhanthi, Kotikanyakadanamdar, Acharya purusha and Radham while treating these posts as unique posts for the reason of performing the service of Kainkaryams occasionally. The Government has accepted the said recommendation unconditionally and we approve of the same.

13. The Committee has further recommended that the Kainkaryams performed by Sri Pedda Jeeyangar and Sri China Jeeyangar should be treated as one performed by the institutions consisting of Sri Pedda Jeeyangar and Sri Chinna Jeeyangar, Ekangies and Adhyapakas. This is accepted by the Government in to and we find it reasonable to uphold the same.

14. Next recommendation of the Committee relating to appointment of Ekangies and Adhyapakas as per the custom and usage, by Sri Pedda Jeeyanagar and putting them under the control of Sri Pedda Jeeyangar, as being done presently, has been accepted by the Government with specific conditions. Government is of the view that all appointees of Pedda Jeeyangar should be paid by him alone with the honorarium to be given to him by TTD. It is seen that the honorarium on annual basis is being provided to Pedda Jeeyangar and Chinna Jeeyangar and we find that the same is quite reasonable.

15. It is next recommended that payment of honorarium of Rs. 10 lakhs per annum to Sri Pedda Jeeyangar and Rs. 5 lacs per annum to Sri Chimma Jayangar for meeting the expenditure connected with Kainkaryams being performed by them including remuneration payable to the Ekangies and Adhyapakas as may be fixed by them. Since they have been provided with adequate funds, it is open to the Pedda Jeeyanagar to appoint such number of staff etc. as recommended by the Committee and accepted by the Government. This recommendation has been accepted by the Government subject to notification as regards honorarium. It would thus be seen that the Government itself has given liberty to the Board subject to the approval of the Government to grant such honorarium as is given by the TTD to Pedda Jeeyangar.

16. The Committee has further recommended that apart from the honorarium the Management may examine the desirability of providing or extending honours to Sri Pedda Jeeyangar and Sri Chinna Jeeyangar without prejudice to the Provisions laid down under Section 142 of the Endowments Act and also to take steps for suggesting necessary amendments to the Act and Rules as they are the Head of the Mutt doing Kainkaryams in the temples. This recommendation has been accepted by the Government unconditionally and we approve of the same.

17. It is further recommended that "in future whenever there is necessity for creating additional post/cadre for Archakas, Potu workers etc. taking into account the due importance to be given to the traditions of the temple and also the administration of the temple, the Thirumala Tirupati Devasthanams administration would be freehand to take appropriate action as a measure of flexibility. However, the Additional Commissioner of Endowments and Joint Secretary/Deputy Secretary to Government (Endowments) shall act as members of the committee constituted by Executive Officer. The TTDs for such revision/creation of posts". The present system of obtaining Government's clearance for creation of the post is to be continued, as accepted by the Government. The Act itself in Chapter IV envisaged the control by the Government in creation of posts etc. The same should be made applicable with regard to the religious staff as well.

18. The Committee further recommends that "as and when the present incumbent in the religious staff retires or demits the office or otherwise, the person in their family should be considered on priority basis for filling of that post or allowing him to do the service to preserve the custom and usage taking into consideration suitability in rendering services apart from the qualifications

required." The Government has accepted the recommendation subject to all other things being equal in competitive recruitment. However, the main concern should be to preserve the customs and usage with a view to protect the sanctity of the religious rituals. The Government itself has been taking care to preserve the sanctity of the religious rituals. Nothing more needs to be said in this behalf. It is accordingly approved.

19. The Committee has further recommended that the honorarium proposed in respect of the posts like Sri Pedda Jeeyangar, Sri Chinna Jeeyangar etc. is subject to revision by the TTD authorities for every five years. The Government has settled that there is no need to prescribe a specific period. Enabling power shall vest with the TTD and Government shall have review and revisional powers as and when needed. We think that the acceptance by the Government with the above modality is perfectly correct and is warranted in the circumstances.

20. It is reported that pre-emptory notice has been given to all the Archakas and Mirasidars on February 6, 1997 directing them to join the services. However, some of them have not responded so far. One month's time from today is granted to them to enable them to join, as the last chance, the services if they so desire. In case they do not join within the said time, they will forfeit their entitlement and no benefit, except the customary honours protected under the Act and given to them. It is brought to our notice that some Archakas rendering service in the temple, interim payment after the judgment, fixed at Rs. 1,500/- per month, is being given as Sambhavana and Rs. 300/- per month as boarding allowance. As regards those working as Gamekars, equally, final notice was given to them on the said date requiring them to join the services but they have also not joined. It would be open to those who were rendering services prior to the delivery of the impugned judgment, to join service within 30 days from today. In case they do not join, they will not be entitled to any of the benefits except the customary benefits protected under Section 142 of the Act.

21. It is then stated that Potu workers are being paid, after the judgment, interim payment between Rs.50 to Rs.70 per day depending upon their work with suitable incentive for work and as night allowance. Equally they have been paid wages, for the period from March 1996 to January 1997, to the extent of Rs.20 lacs and incentive to the extent of Rs.26 lacs, after deducting income tax payable by them. The above payments are subject to approval by the Government the regular scales of pay now approved be paid from the date of the judgment in A.S. Narayana Deekshatulu case, i.e. May 9, 1997.

22. Thus, we hold that the fixation of the scales of pay and payment of honorarium are customary honours provided under the Act. The recommendations as accepted by the Government, with or without modifications, are accordingly approved.

23. IAs/ Petitions are disposed of accordingly.