

HIGH COURT OF ANDHRA PRADESH

* * * *

W.P.NOs:24508 and 22832 of 2025

DATE OF JUDGMENT PRONOUNCED: **29.01.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE NYAPATHY VIJAY,J

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

NYAPATHY VIJAY,J

***THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY**

+ W.P.Nos.24508 and 22832 of 2025

% 29.01.2026

Between:

Andhra Pradesh Animal Husbandary Gazetted Officers
Association, rep. by its President, Chs. Krishna Rao,

...Petitioner

And

The State of Andhra Pradesh, rep. By its Special Chief Secretary,
Animal Husbandry Department, Secretariat, Velagapudi,
Amaravathi, Andhra Pradesh.

...RESPONDENT(S)

Counsel for the Petitioner : Sri G.V.S.Kishore Kumar

Counsel for the Respondent(S): G.P. for Services -II

< Gist :

> Head Note:

? Cases Referred:

¹ *AIR 1961 AP 250*

² **(2022) 5 SCC 179**

³ **(2023) 3 SCC 773**

⁴ (1998) 3 SCC 495

⁵ AIR 2003 SC 1201

⁶ AIR 1993 SC 1768

⁷ (2010) 9 SCC 655

⁸ MANU/HP/2251/2019



[3460]

THURSDAY, THE TWENTY NINTH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 24508/2025

Between:

1. ANDHRA PRADESH ANIMAL HUSBANDARY GAZETTED OFFICERS ASSOCIATION, REP. BY ITS PRESIDENT, CHS KRISHNA RAO, S/O. LATE RAJA RATNAM, AGED ABOUT 43 YEARS. PLOT NO.302, SOWBHAGYA ELITE, RUTHVIK ENCLAVE, CURRENT OFFICE CENTRE, NELLORE DISTRICT, ANDHRA PRADESH

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS SPECIAL CHIEF SECRETARY, ANIMAL HUSBANDRY DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATHI, ANDHRA PRADESH.

2. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, FINANCE DEPARTMENT, SECRETARIAT VELAGAPUDI, AMARAVATHI, ANDHRA

PRADESH.

3.THE DIRECTOR, ANIMAL HUSBANDRY DAIRY DEVELOPMENT AND FISHERIES DEPARTMENT, GOVERNMENT OF ANDHRA PRADESH, VIJAYAWADA, KRISHNA DISTRICT.

4.DR T DAMODAR NAIDU, S/O T. BHASKAR NAIDU, AGED ABOUT 62 YEARS. RES/AT FLAT NO. 406, SURYA MANSION, NEAR NTR HEALTH UNIVERSITY, NTR COLONY, GUNADALA, VIJAYAWADA - 520008, ANDHRA PRADESH.

...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, Order or direction particularly one in the nature of Writ of Quo-Warranto against the Respondent No.4 calling upon the Respondent No.4 to show under what authority he holds the post pursuant to his reappointment made vide GO.Rt.No. 285 dated 06-08- 2025 issued by Respondent no.1 and to vacate the office of the Director of Animal Husbandry, Andhra Pradesh at Vijayawada, against a sanctioned post contrary to the guidelines and without detailing the particulars as required in the annexed check list issued for re-appointment of middle level officers and above on contract/outsourcing basis issued vide GO.Ms.No.1466 dated 22-08-2025 despite the fact a suitable successor is available, the same affects promotional avenues to the next cadre in the pipeline to the respondent no.4 post, discouraging efficiency, in sheer violation of the legal precedents, sans public interest, sans extraordinary desirable circumstances necessitated for reappointment/ extension and in colorable exercise of power by the respondent no.1 and in infringement of promotional opportunities to other officers in pipe line and violative of Articles 14, 16, 21, 309 and 320 of the Constitution of India and also contrary to the Memo.No.2900072/AH.I/A.1/2025 dated 21-07-

2025 issued by the Respondent No.1 and opposed to the very spirit and object of the service jurisprudence and consequently direct the Respondent No.1 herein to conduct the DPC for promotion to the post of Director, Animal Husbandry Department, Andhra Pradesh as per the approved final seniority list issued vide GO.Ms.No.14 dated 09-07-2025 and appoint the rightful candidate in the zone of consideration and enable promotional avenues be extended to all the officers in the zone of consideration, in pipeline for the next higher post in their respective cadres, in the interests of justice

IA NO: 1 OF 2025

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 Pleased to desist the Respondent No.4 from performing the functions/duties as Director, Animal Husbandry Department, Andhra Pradesh at Vijayawada by suspending the GO.Rt.No.285 dated 06-08-2025 issued by the Respondent No.1, pending disposal of the writ petition and to pass

Counsel for the Petitioner:

1.G V S KISHORE KUMAR

Counsel for the Respondent(S):

1.CHIRANJEEVI TALASILA

2.GP FOR SERVICES I

WRIT PETITION NO: 22832/2025

Between:

1.ANDHRA PRADESH ANIMAL HUSBANDRY OFFICERS SERVICE ASSOCIATION, SERVICE ASSOCIATION, REP. BY ITS PRESIDENT, K. SATYANARAYANA, S/O K. SURYA RAO, AGED ABOUT 58 YEARS, D.NO. , 72-14-

8/5, FLAT NO.202, SHANMUKHA HEIGHTS, BABA NAGAR, RAJAHMUNDRY, EAST GODAVARI DISTRICT, A.P.

2.ANDHRA PRADESH VETERINARY ASSISTANT SURGEONS SERVICE ASSOCIATION,, REP. BY ITS PRESIDENT, T. JAYAPRAKASH, S/O T. RAMARAO, AGED ABOUT 48 YEARS, NTR VETERINARY SUPER SPECIALITY HOSPITAL CAMPUS, LABBIPETA, VIJAYAWADA, NTR DISTRICT, A.P

3.DR. PAMULA SATYA KUMARI,, W/O DR. WILSON, AGED ABOUT 59 YEARS, NOW WORKING AS ADDITIONAL DIRECTOR (AH), ADDITIONAL CEO, AP LIVESTOCK DEVELOPMENT AGENCY (APLDA), GOVERNMENT OF ANDHRA PRADESH, VIJAYAWADA, NTR DISTRICT

...PETITIONER(S)

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS SPECIAL CHIEF SECRETARY, ANIMAL HUSBANDRY SECRETARIAT, VELAGAPUDI,DEPARTMENT, AMARAVATHI, ANDHRA PRADESH

2.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, FINANCE DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATHI, ANDHRA PRADESH.

3.THE DIRECTOR, ANIMAL HUSBANDRY DAIRY DEVELOPMENT AND FISHERIES DEPARTMENT, GOVERNMENT OF ANDHRA PRADESH, VIJAYAWADA, KRISHNA DISTRICT.

4.DR T DAMODAR NAIDU, S/O T. BHASKAR NAIDU, AGED ABOUT 62 YEARS, RES/AT FLAT NO. 406, SUIYA MANSION, NEAR NTR HEALTH UNIVERSITY, NTR

COLONY, GUNADALA, VIJAYAWADA - 520008, ANDHRA PRADESH.

...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, Order or direction particularly one in the nature of Writ of Quo-Warranto against the Respondent No.4 calling upon him to quit the office of the Director of Animal Husbandry, Andhra Pradesh at Vijayawada, re-appointed as Director vide GO.Rt.No. 285 dated 06-08-2025 issued by the Respondent No.1 against sanctioned post contrary to the guidelines issued for re appointment of middle level officers on contract/outsourcing basis issued vide GO.Ms.No. 1466 dated 22-08-2025 and violative of Articles 14, 16 and 309 of the Constitution of India and also contrary to the Memo.NO.2900072/AH.I/A. 1/2025 dated 21-07-2025 issued by the Respondent No. 1 and opposed to very spirit and object of the service jurisprudence and consequently direct the Respondent No. 1 herein to conduct DPC for promotion to the post of Director, Animal Husbandry Department, Andhra Pradesh as per the approved final seniority list issued vide GO.Ms.No. 14 dated 09-07-2025 and to pass such

IA NO: 1 OF 2025

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 may be pleased to desist the Respondent No.4 from performing the functions/duties as Director, Animal Husbandry Department, Andhra Pradesh at Vijayawada by suspending the GO.Rt.No.285 dated 06-08-2025 issued by the Respondent No.1, pending disposal of the writ petition and to pass such

IA NO: 2 OF 2025

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 may be pleased to direct the Respondent Nos.1 to 3 herein to consider the candidature of the Petitioner No.3 for promotion to the post of Director, Animal Husbandry Department, Andhra Pradesh at Vijayawada as per the approved final seniority list issued vide GO.Ms.No. 14 dated 09-07-2025, pending disposal of the Writ Petition and pass such

Counsel for the Petitioner(S):

- 1.P DURGA PRASAD

Counsel for the Respondent(S):

- 1.CHIRANJEEVI TALASILA
- 2.GP FOR SERVICES I

The Court made the following:

HON'BLE SRI JUSTICE NYAPATHY VIJAY**W.P.Nos.24508 &22832 of 2025****COMMON ORDER:**

The present writ petitions are filed seeking a writ of quo-warranto against Respondent No.4 pursuant to his re-appointment as Director of Animal Husbandry vide G.O.Rt.No.285 dated 06.08.2025.

2. As the issue in these two writ petitions is common, with the consent of learned counsel, the matters were taken up for hearing and are disposed of by this common order.

3. The Petitioner in W.P.No.24508 of 2025 is a Gazetted Officers Association, while Petitioner Nos.1 and 2 in W.P.No.22832 of 2025 are Animal Husbandry Officers Service Association and Veterinary Assistant Surgeons Service Association and Petitioner No.3 is an individual aspiring to the post of Director of Animal Husbandry. Respondent No.4 had retired from service on attaining the age of superannuation on 31.07.2025. Prior to the age of superannuation, Respondent No.4 requested for extension of his service for a further period of one year on re-employment basis. Considering the request, vide proceedings dated 06.08.2025, Respondent No.4 was re-

employed as Director of Animal Husbandry for a period of one year. The contention of the Petitioners is that the appointment of Respondent No.4 is contrary to the guidelines for re-employment vide G.O.Ms.No.1466, dated 22.08.2025 and the procedure prescribed therein was not followed. Secondly, it is stated that re-appointment beyond the age of superannuation is not supported by the rules nor any public interest is established in issuing orders of re-employment. It is also contended that impugned order hits the promotional avenues of aspirants for the said post and contrary to the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984.

4. In the counter affidavit filed by Respondent Nos.1 and 4, it is stated that Respondent No.4 had addressed letter No.1/Peshi, dated 11.07.2025 to the Government requesting for extension of service as Director of Animal Husbandry for one more year so as to carry forward goals and identified objectives and programs as per State's vision. On the said request, Respondent No.4 was informed that proposal for extension is not feasible as per rules in vogue and that the Government had issued guidelines for re-appointment of retired officers on contract/outsourcing basis vide G.O.Ms.No.1466, G.A. (Poll.C) Department, dated

20.08.2024 and as per the guidelines therein, the proposals for re-employment are to be placed before the Screening Committee in a prescribed pro-forma as per U.O Note No.2488533/Poll.C/2024,GA (Pol.C) Department, dated 28.01.2025.

5. The Respondent No.4 was directed to furnish the proposal in the prescribed pro-forma for taking further action. It is also stated that 15 public representatives have recommended to consider the request of the Respondent No.4 for re-appointment on the above requests. The issue was placed before the Screening Committee as notified by G.O.Rt.No.1466, dated 22.08.2024. It is also stated that in the interregnum, Respondent No.4 had retired from service on attaining the age of superannuation and in-charge arrangements were made by appointing Special Chief Secretary to Government through Memo No.2924043/AH.1/A.1/2025, dated 01.08.2025. In view of the administrative exigency, despite placing the proposal before the Screening Committee, it was decided to obtain circulation orders from the Chief Minister, as per the A.P. Business Rules, 2018, and as per the procedure laid down in G.O.Rt.No.1466, dated 22.08.2024. It is stated that only G.O.Rt.No.1466, dated

22.08.2024 provides for obtaining circulation orders from Chief Minister due to administrative exigencies.

6. It is stated that the file bearing No.2918111 has been circulated and the Chief Secretary of A.P. had recommended the proposal of Respondent No.4 for appointment and the Chief Minister approved the recommendation. Accordingly, Respondent No.4 was re-appointed as Director of Animal Husbandry against the sanctioned post on a re-employment basis vide impugned orders. It is further stated that one Dr. Suresh Kumar Pothireddy, Veterinary Assistant Surgeon, had made certain allegations against Respondent No.4 regarding irregular transfer in respect of his wife and on the said allegations, a report has been obtained from the Head of the Department and the same is under examination.

7. As regards the plea of applicability of age of superannuation, it was stated that the Government had followed the procedure prescribed as per A.P. Business Rules, 2018 and G.O.Rt.No.1466, dated 22.08.2024. A plea concerning the alleged right of serving Officers was denied as alleged claim of one Dr. Y.Simhachalam to be considered for promotion was

denied as not tenable, since the said individual is found to be fit for the post of Director of Animal Husbandry as per seniority list issued through G.O.Ms.No.2, AHDD&F (AH.I), dated 06.01.2022 and he is yet to be promoted in the cadre of Director of Animal Husbandry. It is further stated that re-appointment in public exigencies is a prerogative of the Government under its discretionary powers and cannot be claimed as a right.

8. Respondent No.4 filed a counter affidavit stating that there is no procedural irregularity and the appointment aligns with the rules. It is further stated that writ of quo-warranto is not maintainable, as Respondent No.4 could not be said to lack eligibility or that his re-appointment is contrary to the statutory Rules.

9. **Contentions:** Learned counsel for the Petitioners reiterated the pleadings and contended that the appointment of Respondent No.4 is contrary to G.O.Ms.No.1466, dated 22.08.2024 and seeking approval from the Chief Minister does not align with the procedure prescribed and further contended that re-appointment cannot be in contravention of the service rules and the Age of Superannuation Act. It is contended that the

appointment to the post of Director of Animal Husbandry can be made only by way of promotion, subject to the age of superannuation, and the statutory rules cannot be violated. Furthermore, the appointment does not concern any public interest.

10. Learned Government Pleader contends that the appointment aligns with the order of G.O.Rt.No.1466, dated 22.08.2024 which enables the approval of the Hon'ble Chief Minister by circulation in certain administrative exigencies. Learned Government Pleader further contended that the determination of public interest is a prerogative of the Government and it is not for the Petitioners to contend about public interest. As regards the age of superannuation and the rules governing the post, it is contended by the learned Government Pleader that G.O.R.T.No.1466 provides for re-appointment and the procedure is followed and the prerogative of the Government to appoint individuals cannot be faulted with.

11. Learned Senior Counsel Sri N.Subba Rao appearing for Respondent No.4 reiterated the pleadings and submitted that a

writ of quo-warranto is not maintainable as Respondent No.4 had fulfilled the requisite qualifications for the said post.

12. Heard Sri P.Durga Prasad, G.V.S.Kishore Kumar, learned counsel for the Petitioner, Learned Government Pleader for Services-I and Senior Counsel Sri N.Subba Rao.

13. The issues that fall for consideration in these cases are:

(i) Whether the Petitioners have locus standi to file the writ of quo-warranto?

(ii) Whether the appointment of Respondent No.4 aligns with the procedure contemplated under G.O.R.T.No.1466, dated 22.08.2024?

(iii) Whether the appointment of Respondent No.4 aligns with the statutory rules governing the post of Director of Animal Husbandry?

14. **Issue No.1:** In **Mocherla Venkataraya Sarma Vs. Y.Sivarama Prasad¹**, the Division Bench of the composite High Court regarding maintainability of writ of quo warranto by a third party/relator observed thus:

11. At the outset, we must say that we cannot accede to the theory propounded on behalf of the Government that

¹ AIR 1961 AP 250

the relator having no personal interest in the matter could not exhibit this information against the Chairman and the Vice-Chairman. It is argued on behalf of the Government that the petitioner has no locus standi to seek the jurisdiction of the Court for this purpose. In our opinion, an information would lie even at the instance of a relator who has no personal interest in the matter. Information in the nature of quo warranto could be filed in the case of Municipal Corporations or local Boards on the relation of private parties. It is open to a private individual to bring it to the notice of the Court that a person who is disqualified to hold an office is still holding it. A person who is not legally entitled to hold an office should not be permitted to hold it.

“.....this proceeding by information in the nature of quo warranto will lie for usurping any office, whether created by charter alone, or by the Crown, with the consent of Parliament, provided the office be of a public nature, and a substantive office not merely the function or employment of a Deputy or servant held at the will and pleasure of others. The test to be applied is whether there has been usurpation of an office of a public nature and an office substantive in character, that is, an office independent in title.”

12. Therefore, it is competent for a voter or a member of any of the local bodies to invoke the jurisdiction of this court for the issue of information in the nature of quo warranto. Consequently, the proceedings could be entertained by this Court for the purpose for which its jurisdiction is invoked.

13. This leads us to the question whether the jurisdiction of this court should be exercised in a case like this. As pointed out by Tindal, C.J. in deciding whether the information should be refused or whether the rule should be granted, the test is whether there has been usurpation of an office; in other words, whether there is a legal disability to hold the office by or a legal prohibition against a person occupying a particular place.

15. Similarly, in **Gambhirdan K. Gadhvi v. State of Gujarat**², it was observed by the Hon'ble Supreme Court that strict rules of *locus standi* are relaxed in quo-warranto proceedings and the primary obligation of the Court is to see that public office is not usurped. The paragraphs 17 and 18 are extracted below;

“ 17. In *Armed Forces Medical Assn. v. Union of India*⁹, it has been observed by this Court that strict rules of *locus standi* are relaxed to some extent in a quo warranto proceedings. It is further observed in the said decision that broadly stated, the quo warranto proceeding affords a judicial remedy by which any person, who holds an independent substantive public office or franchise or liberty, is called upon to show by what right he holds the said office, franchise or liberty, so that his title to it may be duly determined, and in case the finding is that the holder of the office has no title, he would be ousted from that office by a judicial order. It is further observed that in other words, the

² (2022) 5 SCC 179

procedure of quo warranto gives the judiciary a weapon to control the executive from making appointments to public office against law and to protect citizens from being deprived of public office to which they have a right. These proceedings also tend to protect the public from usurpers of public office. It is further observed that it will, thus, be seen that before a person can effectively claim a writ of quo warranto, he has to satisfy the Court that the office in question is a public office and is held by a usurper without legal authority, and that inevitably would lead to an enquiry, as to, whether, the appointment of the alleged usurper has been made in accordance with law or not.

18. *Thus, as per the law laid down in a catena of decisions, the jurisdiction of the High Court to issue a writ of quo warranto is a limited one, which can only be issued when a person is holding the public office does not fulfil the eligibility criteria prescribed to be appointed to such an office or when the appointment is contrary to the statutory rules. Keeping in mind the law laid down by this Court in the aforesaid decisions on the jurisdiction of the Court while issuing a writ of quo warranto, the factual and legal controversy in the present petition is required to be considered.”*

16. Thus, in the considered opinion of this Court, the Petitioners can maintain a writ of quo warranto and get *locus*. Issue No.1 is answered accordingly.

17. **Issue No.2:** The re-engagement of retrenched employee is termed as “re-employment” as per Section 25H of the Industrial Disputes Act, 1947. With passage of time, this concept of labour law has percolated into service law. Be that as it may, G.O.Rt.No.1466, dated 22.08.2024, was issued taking note of the appointment of retired Government Officers on contract/outsourcing basis without following any procedure or taking approval of the competent authorities. As per the G.O., Screening Committees were constituted depending on the cadre of employees seeking for re-appointment. After approval of the Screening Committee, the concerned Department shall take approval of the Chief Minister duly following the Business Rules.

18. The proposals that have been rejected by the Screening Committee shall not be proceeded with further. The proposals for re-appointment are to be forwarded to the screening committee by the Special Chief Secretaries /Principal Secretaries /Secretaries to Government along with the details of the employee.

19. In exceptional cases, where the sponsoring department believes that there is a dire need for re-appointment, they may process the matter in circulation through the Chief Secretary,

Ministers concerned, Minister of Finance and Chief Minister as provided in the existing Business Rules and Secretariat instructions for re-appointment against a sanctioned post. The paragraphs 5 and 6 of G.O.Rt.No.1466, dated 22.08.2024 are extracted below:

5. All the Special Chief Secretaries /Principal Secretaries /Secretaries to Government are directed to submit proposals along with the details of the retired employees proposed for re-appointment on contract/ outsourcing to the above Committee for examining the necessity for re-employment in the prescribed checklist appended to this order.

*6. After approval of Screening Committee, the concerned department shall take the approval of Hon'ble Chief Minister, duly following the business rules. The proposals not approved by the Screening Committee shall be summarily rejected and not to be proceed further. **In exceptional cases, where the department still feels that the need for re-appointment is genuine and essential, they may process the matter in circulation through the Chief Secretary /Minister concerned/Minister for Finance and Chief Minister, as provided for in the existing Business Rules and Secretariat Instructions.***

20. In this case, the file was not forwarded through the Screening Committee on account of unstated administrative

exigencies. The highlighted portion of paragraph No.6 as extracted above, contemplates that the Screening Committee can be bypassed in exceptional cases, where the Department feels the need of re-appointment is genuine and essential. The emphasis here is on the need of the Department and not of the individual.

21. Only when the Department believes that re-appointment is essential and an absolute requirement, only then, the Screening Committee can be bypassed for processing the matter in circulation through the Secretary, Ministers concerned and Chief Minister. In the present case, as apparent from the impugned proceedings itself, the Department did not seek for any extension of the services of Respondent No.4. As per the impugned proceedings, the Respondent No.4 had addressed a letter bearing R.O.C.No.1/Peshi, dated 11.07.2025 (Ref.No.1 in the impugned proceedings) seeking re-appointment as Director of Animal Husbandry and the same was accepted vide impugned proceedings. The relevant portion of the impugned letter is extracted below:

ORDER: -

In the reference 1st read above, Dr. T. Damodar Naidu, Director of Animal Husbandry, Andhra Pradesh, Vijayawada, has stated that he is due to retire from Government service on the afternoon of 31.07.2025 on attaining the age of superannuation and requested for extension of his services for a further period of one (1) year, on re-employment basis.

2. After careful consideration of the request and keeping in view the administrative exigencies, Government hereby re-appoints Dr. T. Damodar Naidu, Retired Director of Animal Husbandry, as Director of Animal Husbandry, Andhra Pradesh, Vijayawada, against the sanctioned post, on re-employment basis, for a period of one (1) year with immediate effect, until further orders.

22. There is no letter of the Department expressing dire need for continuance of Respondent No.4 even in the original file furnished to the Court, for bypassing the screening committee, but the extension was solely based on the letter by Respondent No.4. In this case, the procedure as contemplated under G.O.Rt.No.1466 is not followed and the re-appointment of Respondent No.4 on the strength of his own letter dated

11.07.2025 cannot be sustained. Issue No.2 is answered accordingly.

23. **Issue No.3:** The post of Director of Animal Husbandry is governed by the **A.P.State Animal Husbandry Service Rules 1996** framed in exercise of powers under the proviso to Article 309 of the Constitution of India. Rule 3 thereof prescribes the method of appointment and appointing authority to the post and the same reads as under;

3. METHOD OF APPOINTMENT AND APPOINTING AUTHORITY

a) Subject to the other provisions in these rules, the method of appointment and appointing authority for the several categories **shall be as specified in the Table below :-**

Category	Method of Appointment	Appointing Authority
(1)	(2)	(3)
Class – A	1. Director of Animal Husbandry By promotion of Additional Director of Animal Husbandry.	Government

24. The highlighted portion of Rule 3 states that appointment to the post of Director among other categories **“shall be as specified in the Table below”**. Coming to the post in question i.e **“Director of Animal Husbandry”**, the same is by promotion from the cadre of Additional Director only. No other mode of

appointment is recognized under the Rules framed under the proviso to Article 309 of the Constitution of India.

25. The first fundamental to be appreciated in relation to public employment is that every aspect is governed by statutory rules. These statutory rules do not yield to executive instructions or give a right to the employer to bypass the procedure prescribed under the Rules. When a statutory rule contemplates appointment only by way of promotion from the cadre of Additional Director of Animal Husbandry, no other procedure can be adopted for appointment by the Government, as that would run contrary to the statutory rules governing the appointment to the post.

26. It would be useful to refer to the judgment of Hon'ble Supreme Court in ***State of H.P. v. Raj Kumar***³, about the dominance of Rules, in matters of employment. The question that fell for consideration in the said case was whether appointments to the public posts that fell vacant before the amendment of the Rules would be governed by the old Rules or the new Rules. The Hon'ble Supreme Court held that rules as on date of consideration for promotion would govern and not when they fell

³ (2023) 3 SCC 773

vacant. The relevant portion of paragraph 27 thereof is extracted below;

27.4. In view of the dominance of rules that govern the relationship between the Government and its employee, all matters concerning employment, conditions of service including termination are governed by the rules. There are no rights outside the provision of the rules.

27.6. Conditions of service of a public servant, including matters of promotion and seniority are governed by the extant rules. There are no vested rights independent of the rules governing the service.

27.7. With the enactment of laws and issuance of rules governing the services, Governments are equally bound by the mandate of the rule. There is no power or discretion outside the provision of the rules governing the services and the actions of the State are subject to judicial review.

27. Even assuming for the sake of argument that the appointment of the Respondent No.4 is in accordance with G.O.R.T.No.1466, dated 22.08.2024, the same would not be of any avail as an executive order cannot interdict the method of appointment prescribed under the statutory Rules on the principle of “doctrine of occupied field”. The Hon’ble Supreme Court in the

case of ***A.B. Krishna and Ors. v. State of Karnataka and Ors.***⁴

observed at paragraph 8 as under;

*“8. The Fire Services under the State Government were created and established under the Fire Force Act, 1964 made by the State Legislature. It was in exercise of the power conferred under Section 39 of the Act that the State Government made Service Rules regulating the conditions of the Fire Services. Since the Fire Services had been specially established under an Act of the legislature and the Government, in pursuance of the power conferred upon it under that Act, has already made Service Rules, any amendment in the Karnataka Civil Services (General Recruitment) Rules, 1977 would not affect the special provisions validly made for the Fire Services. **As a matter of fact, under the scheme of Article 309 of the Constitution, once a legislature intervenes to enact a law regulating the conditions of service, the power of the Executive, including the President or the Governor, as the case may be, is totally displaced on the principle of “doctrine of occupied field”.***

28. As the procedure for appointment is only by way of promotion from the cadre of Additional Director of Animal Husbandry, the re-appointment of Respondent No.4 does not align with the Rules and cannot be sustained.

⁴ (1998) 3 SCC 495

29. It is to be noted that the ***A.P.State Animal Husbandry Service Rules 1996*** do not provide for any power of relaxation to the government and in the absence of any power of relaxation, there is absolutely no leeway for the State Government to issue the impugned proceedings.

30. The sub-facet of this issue is the correctness of continuance of the petitioner beyond the age of superannuation in a post governed by Statutory Rules. Section 3 of the A.P.Public Employment (Regulation of Age of Superannuation) Act, 1984, as amended vide G.O. Ms.No.15, Finance (HR.IV-FR&LR) Department, dated 31.01.2022 mandates that employees should retire on the afternoon of the last day of month in which he attains 62 years and Section 4 has overriding effect on all laws inconsistent thereto. The Sections 3 and 4 are extracted below;

3. Age of Superannuation – (1) Every Government employee shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty two years.

4. Act to override other laws – The provisions of this Act shall have effect notwithstanding anything in consistent therewith contained in any other law, for the time being in force.

31. The age of superannuation for Government employees is 62 years and any continuance in a statutory post governed by statutory Rules beyond the said age is contrary to the A.P. Public Employment (Regulation of Age of Superannuation) Act, 1984. The appointments of persons who are superannuated can at best be in non-statutory posts in the capacity of advisor, Officer on Special Duty etc., on contract basis only.

32. Coming to the case law cited by Sri N.Subba Rao, learned senior counsel for the Respondent No.4 and the learned Government Pleader i.e. ***High Court of Gujarat and others v. Gujarat Kishan Mazdoor Panchayat and others***⁵, ***R.K.Jain v. Union of India***⁶, ***Hari Bansh Lal v. Sahodar Prasad Mahto and others***⁷, and ***Satish Chandra Mishra v. Union of India and others***⁸ are cases where the appointments questioned were held in consonance with the Rules, unlike the present case.

33. In light of the above, the re-appointment of Respondent No.4 as Director of Animal Husbandry does not align with the

⁵ AIR 2003 SC 1201

⁶ AIR 1993 SC 1768

⁷ (2010) 9 SCC 655

⁸ MANU/HP/2251/2019

procedure for re-appointment as well as the statutory rules governing the post.

34. The writ petitions are, therefore, allowed and accordingly writ of quo warranto is issued. No order as to costs.

As a sequel, pending applications, if any, shall stand closed.

NYAPATHY VIJAY, J

Date: 29.01.2026

KLP

Note: L.R.Copy be marked.