

APHC010656682012



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

[3529]

TUESDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION Nos: 464 & 740 OF 2012

Between:

1.N. AUDILAKSHMAMMA, CHITTOOR DIST, W/O.
RAMAKRISHNA ATTENDER II ADDITIONAL JUNIOR
CIVIL JUDGE, TIRUPATI, CHITTOOR DISTRICT

...PETITIONER

AND

1.DIST JUDGE CHITTOOR DIST ANOTHER,
CHITTOOR, CHITTOOR DISTRICT

2.STATE OF ANDHRA PRADESH REP BY ITS
PRINCIPAL SECRETARY, LAW & COURTS,
SECRETARIAT, HYDERABAD

...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 an appropriate writ, direction or order, more particularly one in the nature of Writ of Certiorari calling for the records of the 1st respondent pertaining to his orders in L.Dis.No. 208/2010 dt. 14.6.2010 as partly confirmed by the orders of this Hon'ble Court vide ROC.No. 1956/2010-C-1, dt. 8.8.2011 on its

administrative side to the extent of reverting the petitioner's service as a Full Time Masalchi and to Quash the same and consequently directing the respondents to continue her service as an attender and to release all the consequent benefits which were withheld on the basis of the impugned orders including, and to pass

IA NO: 1 OF 2011(WPMP 41713 OF 2011)

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 dispense with the requirement of filing original of the order of the District & Session Judge, Tirupathi dt. 14.6.2010 L.Dis.No. 208 of 2010 in the interest of justice and to pass

IA NO: 1 OF 2012(WPMP 588 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 direct the respondents to continue the petitioner services and wages as an attender, during the pendency of the above writ petition in the interest of justice.

Counsel for the Petitioner:

1.K SARVA BHOUMA RAO

Counsel for the Respondent(S):

1.M BHASKARA LAKSHMI (SC FOR APHC)

2.GP FOR LAW LEGISLATIVE AFFAIRS

WRIT PETITION NO: 740/2012

Between:

- 1.SMT. G. RATNAMMA, CHITTOOR DIST., W/O RAMAYYA ATTENDER (RETIRED) II ADDITIONAL JUNIOR CIVIL JUDGE, TIRUPATI, CHITTOOR DISTRICT.

...PETITIONER

AND

- 1.DIST JUDGE CHITTOOR DIST ANR, CHITTOOR, CHITTOOR DISTRICT.
- 2.STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, LAW AND COURTS, SECRETARIAT, HYDERABAD.

...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 an appropriate writ, direction or order, more particularly one in the nature of Writ of Certiorari calling for the records of the 1st respondent pertaining to his orders in L.Dis.No. 208/2010 dated 14.06.2010 as partly confirmed by the orders of this Hon'ble Court vide ROC No. 1957/2010-C-1, dated 08.08.2011 on its administrative side to the extent of reverting th petitioner services as a Full Time Masalchi and to quash the same and to consequently direct the respondentns to process the petitioner pension and other related papers considering her services and wages as an attender and to release her superannuation benefits including pension, and to pass

IA NO: 1 OF 2012(WPMP 616 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 dispense with the requirement of filing original of the order of the District & Sessions Judge, Tirupathi dated 14.06.2010 passed in L.Dis. No. 208 of 2010 in the interest of justice and to pass

IA NO: 2 OF 2012(WPMP 908 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

IA NO: 1 OF 2014(WPMP 18261 OF 2014)

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

Counsel for the Petitioner:

1.K SARVA BHOUMA RAO

Counsel for the Respondent(S):

1.N V SUMANTH

2.GP FOR LAW & LEGISLATIVE AFFAIRS

The Court made the following:

HON'BLE SRI JUSTICE RAO RAGHUNANDAN RAO

AND

HON'BLE SRI JUSTICE T.C.D. SEKHAR

WP Nos.464 & 740 OF 2012

COMMON ORDER:- *(Per Hon'ble Sri Justice T.C.D. Sekhar)*

1. Since the issue involved in both the writ petitions is one and the same, they are being disposed of by this common order.

2. The petitioners were initially appointed as part time Masalchi's during the year 1981 & 1979 respectively. Subsequently they were appointed as Full Time Masalchi's. It is further case of the petitioners that by proceedings dated 01.05.1999, the 1st respondent regularized the services of the petitioners along with other similarly placed persons by appointing them in the permanent Government Posts as attenders' with effect from 25.11.1993 and monetary benefits with effect from 01.04.1996.

3. Since then, the petitioners were discharged their duties as attenders and they were being paid salaries after fixation of revised pay scales. It is further case of the

petitioners that after having put-up 18 years of service as attenders, the 1st respondent issued proceedings dt.14.06.2010 whereby and whereunder the petitioners were reverted to the post of Full Time Masalchis with immediate effect on the ground that the petitioners did not possess the requisite and eligible qualification of VII class pass, to be appointed as attenders. The 1st respondent further directed to recover the differential wages drawn by the petitioners. Aggrieved by the same, the petitioners filed appeals before the Registrar (Administration), High Court of Andhra Pradesh. By order dated 08.08.2011, partly allowed the appeals filed by the petitioners to the extent of recovery of pay and allowances drawn by the petitioners, while confirming the reversion. Aggrieved by these orders, the present writ petitions are filed.

4. Heard Sri K. Sarvabhooma Rao, counsel for the petitioners and learned Standing Counsel appearing for the respondent No.1

5. Perused the record.

6. It is the specific case of the petitioners that they were initially appointed as Part-Time Masalchi's in the year

1981 & 1979 respectively. Subsequently their services were regularized by proceedings dt.01.05.1999 by promoting them as attenders. It is not in dispute that the petitioners served as such for a considerable length of period.

7. As can be seen from the record, it is evident that the 1st respondent by proceedings dt.14.06.2010, the petitioners were reverted to the post of Full Time Masalchis inasmuch as they did not possess the requisite qualification of VII class pass and further directed to recover the differential wages drawn by the petitioners. On appeals, the said order passed by the 1st respondent were partly allowed by setting aside the recovery of wages from the petitioners.

8. Though it is contended by the counsel for the petitioners that the orders under challenge are liable to be set aside on the ground that, no notice was issued before passing such orders. It was further contended that, it is not the case of respondents that the petitioners have played fraud. He would further submit that having served as attenders for 18 long years, there is no justification in revering the petitioners by

virtue of orders under challenge and prayed to allow the writ petition.

9. On the other hand, the learned Standing Counsel appearing for respondent No.1 would contend that, there is no illegality or infirmity in the impugned orders as they were passed after considering the facts of the case. He would further submit that, as the petitioners did not possess requisite qualification to be appointed as attenders, they were rightly reverted.

10. A perusal of record, it is succinctly clear that the petitioners were promoted as attenders by proceedings dt.01.05.1999 while regularizing their services. Thereafter, the petitioners were served as such for 18 years without any blemish. It is also not borne in record that the petitioners have either played fraud or misrepresented, while their services were regularized. The respondent authorities have regularized the services of the petitioners with eyes wide open and therefore the same cannot be put against them. Admittedly, there is no malafides attributed against the petitioners. Further, the Registration (Administration), High Court of Andhra

Pradesh has set aside the order of recovery of wages on appeals, while confirming the order of reversion.

11. It is pertinent to note that, any order passed shall be strictly in accordance with law. In the present cases, admittedly the petitioners were promoted despite the fact that they did not possess the requisite qualifications. In such circumstances, it cannot be said that the order of reversion is bad in law. In that view of the matter, this Court does not find any merit in the contention of the counsel for the petitioners.

12. During the course of hearing, the counsel for the petitioners would submit that as the petitioners have retired long ago, requested this Court to fix the pension and other benefits based on the salary drawn by the attenders. Having considered the cases on hand, coupled with the fact that the petitioners have served as attenders for a considerable length of time, by taking a lenient view in the matter, this Court deems it appropriate to direct the respondents to fix the pension and other benefits based on the salary drawn by the petitioners as attenders. It is further made clear that, the petitioners are not entitled to claim back wages as attenders.

It is further made clear that, this order shall not be treated as a precedent.

13. Accordingly, the Writ Petitions are disposed of as indicated above. There shall be no order as to costs.

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

JUSTICE RAO RAGHUNANDAN RAO

JUSTICE T.C.D. SEKHAR

.03.2026
DR

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THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

WP Nos.464 & 740 OF 2012
Dt.10.03.2026

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