

APHC010413092010



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

**[3527]**

**TUESDAY ,THE EIGHTH DAY OF JULY  
TWO THOUSAND AND TWENTY FIVE**

**PRESENT**

**THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN**

**THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**

**WRIT PETITION NO: 25887/2010**

**Between:**

The Government Of Andhra Pradesh, and Others

**...PETITIONER(S)**

**AND**

E Subba Rao and Others

**...RESPONDENT(S)**

**Counsel for the Petitioner(S):**

1. THE ADVOCATE GENERAL (AP)
2. ADDL ADVOCATE GENERAL

**Counsel for the Respondent(S):**

1. K RAMAMOCHAN
2. GP FOR SERVICES IV
3. GP FOR SERVICES I

**The Court made the following:**

**HON'BLE SRI JUSTICE B.KRISHNAMOHAN**  
**AND**  
**THE HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA**  
**WRIT PETITION No.25887 of 2010**

**ORDER:** [ *per Hon'ble Sri Justice A.Hari Haranadha Sarma*]

This Writ Petition is filed questioning the orders of the erstwhile Andhra Pradesh Administrative Tribunal, dated 27.04.2010 passed in O.A.No.5929 of 2007, with a prayer to quash or set aside the same by issuing appropriate order or orders or direction, more particularly in the nature of Writ of Certiorari.

2. The 1<sup>st</sup> petitioner is the Government of Andhra Pradesh, represented by its Principal Secretary, Medical and Health Department and the 2<sup>nd</sup> petitioner is the Principal, Guntur Medical College, Guntur, who are the respondents 1 and 2 respectively, before the Andhra Pradesh Administrative Tribunal [ *for short* 'APAT'].

3. The 1<sup>st</sup> respondent herein- E.Subba Rao is the applicant, filed an application before the APAT, in terms of Section 19 of A.P. Administrative Tribunals Act, 1985, contending that he worked continuously for 30 years as a 'Games Peon', and sought relief of declaring the action of the writ petitioners in not regularizing his services in terms of G.O.Ms.No.212, Finance & Planning, dated 22.04.1994 as illegal, arbitrary and violation of principles of natural justice and against Articles 14, 16 and 21 of the Constitution of India.

4. Learned APAT vide orders dated 27.04.2010 allowed the application in O.A.No.5929 of 2007 directing the 1<sup>st</sup> petitioner herein, *to consider the case of the applicant for grant of regularization of his services, if necessary by creating the post of Games Peon in Guntur medical College and if not, in any other clear vacancy of Class-IV in the said College, for which he is eligible, or in any other departments, District Offices, as contemplated under G.O.Ms.No.212, Finance and Planning dated (FW.PC.III) Department, dt.22.4.1994 and pass necessary orders within a period of eight weeks from the date of receipt of the order.*

5. Aggrieved by the said orders, the present Writ Petition is filed questioning the sustainability of orders of the APAT, on the grounds:

i) The wages paid to the applicant are met from Students Association Fund.

ii) The applicant was appointed as 'Games Peon' by the Sports Association.

iii) The findings of the learned APAT that Cheques were drawn on SBI Treasury Office, duly signed by the drawing Officer, but in fact, the cheques were issued in the capacity of the President of the Games and Sports Association by the Principal, not as a drawing officer.

iv) The applicant was not appointed on contingent basis. There was no post of 'Game Peon' in Guntur Medical College.

v) In the absence of the post of 'Games Peon', benefit of G.O.Ms.No.212 Finance and Planning, Department (FW.PC-III) dated 22.04.1994 cannot be extended and regularization is not possible.

6. Heard both sides extensively.

**Point:-**

*Whether the impugned order dated 27.04.2010 passed in O.A.No.5929 of 2007 by the APAT, accepting the eligibility of E.Subba Rao/applicant in the said O.A., who is the 1<sup>st</sup> respondent herein, is suffering from any illegality warranting any interference by way of Writ of Certiorari, or any other order?*

7. Learned Additional Advocate General appearing for the writ petitioners relied on the observations of the Hon'ble Supreme Court in a case between **State of Karnataka and Others Vs. Uma Devi (3) and others<sup>1</sup>**, with regard to modes of appointment, permissibility of absorption and regularization etc., particularly back door entry on daily waged appointments and thereafter regularization, which is deprecated naming it as a class of litigious employment.

8. In the **Uma Devi's** case [cited 1 supra], the observations of the Hon'ble apex Court, in para 53, are as follows:

**"53.** One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa [(1967) 1 SCR 128 : AIR 1967 SC 1071]*, *R.N. Nanjundappa [(1972) 1 SCC 409 : (1972) 2 SCR 799]* and *B.N. Nagarajan [(1979) 4 SCC 507 : 1980 SCC (L&S) 4 : (1979) 3 SCR 937]* and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of

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<sup>1</sup> 2006 (4) SCC 1

the courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such *irregularly* appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.

9. It is relevant to note that G.O.Ms.No.212, dated 22.04.1994 issued as an effective measure is not disputed as violative of the judgment in ***Uma Devi's*** case [cited 1 supra]. It is also not in dispute that several regularizations have taken place pursuant to the G.o.Ms.No.212. Therefore, the observations relied on by the learned Additional Advocate General, vide ***Uma Devi's*** case are not of any help, when the applicant is seeking benefit under G.O.Ms.No.212.

10. Now the question is whether the applicant is covered under G.O.Ms.No.212, which was the core issue before the learned APAT.

11. The applicant has worked continuously and his appointment was temporary as 'Games Peon' with effect from 06.08.1976 at Rs.90/- per month as per the proceedings of the President, Guntur Medical College,

Games and Sports Association-Cum- Principal, Guntur Medical College, Guntur. The objection of the writ petitioners is that there is no sanctioned post of 'Games Peon' in the medical college. The applicant has put in nearly 17 years of continuous service as contingent employee in the Department of Guntur Medical College. 5 years continuous service is the eligibility criteria as per G.O.Ms.No.212, which is special Scheme as contemplated by the Government.

12. Learned counsel for the writ petitioners also relied on the observations of the Hon'ble Apex Court made in a case between **State of Gujarat and Ors. Vs. R.J Pathan and Ors.**<sup>2</sup> submitting that the regularization cannot be done where the appointments are irregular, particularly where the appointments are temporary, made pursuant to a project or programme. The circumstances in the case cited are that the appointments are made for 11 months in respect of a temporary project meant for "Post-Earthquake Redevelopment Programme'. The case now under consideration is not similar to the case cited vide **R.J. Pathan's** case [*cited 2 supra*]. Therefore, the same is not helpful to the writ petitioners.

13. Learned APAT after referring to G.O.Ms.No.212, and its applicability, made the following observations:

- (i) The Guntur Medical College is run with the government funds.
- (ii) Bunch of cheques issued in favour of the applicant filed by the 2<sup>nd</sup> writ petitioner herein, would show that they are government

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<sup>2</sup> 2022(5) SCC 394

cheques drawn on SBI Treasury, which shows that the salaries were paid by the Government.

- (iii) If the salaries are not paid from the Government fund, there is no need to issue Government Cheques. Hence, condition under G.O.Ms.No.212 is complied on that point.
- (iv) As per G.O.Ms.No.487, Finance (SMPC) Department, dated 06.12.2008, permanent/temporary/supernumerary posts were extended.
- (v) There are posts like house keeper, Office Subordinate, sweepers, Thoty, bearer, watchmen, gatemen etc., although there is no post like 'games peon'. In respect of S.V. Medical College, Tirupathi, there is a 'Games Peon' post also.
- (vi) The applicant was appointed on contingent basis, on a fixed salary.
- (vii) As per G.O.Ms.No.212, for regularization in case Work charged Establishment has no clear vacancies, the persons worked in such establishment shall be adjusted in other Departments, District Offices, where there are clear vacancies of last cadre service.
- (viii) Therefore, there is no need of clear vacancies with the same designation.

14. It is not the case of the writ petitioners that the applicant did not render the work. It is clear from the affidavit filed in support of the Writ Petition that the applicant was marking boundary lines, fetching the sports items such as balls, bats, nets, play ground requirements etc., the work done is similar to the works of the other posts like Office Subordinate, sweepers, Thoty, bearer, watchmen, gatemen, dhobi, animal attendant, gardner, ayah etc., which are shown in annexure to the G.O.Ms.No.487

dated 06.12.2008. G.O.Ms.No.487 dated 16.02.2008 referred by the learned counsel for the writ petitioners, is showing the following categories of Low Grade service employments sanctioned for Guntur Medical College:

|                      |   |    |
|----------------------|---|----|
| Office Sub-ordinates | - | 11 |
| Sweepers             | - | 15 |
| Thoty                | - | 4  |
| Bearer               | - | 3  |
| Watchmen             | - | 2  |
| Gatemen              | - | 1  |
| Dhobi                | - | 3  |
| Animal Attendant     | - | 1  |
| Ayah                 | - | 1  |
| Bus cleaner          | - | 1  |
| Gardenor             | - | 1  |
| Sweepers             | - | 1  |

15. The objection of the writ petitioners is that the 1<sup>st</sup> respondent-Subba Rao, rendered services as 'Games Peon' and such post is not there. The meaning of the word 'peon', as per Oxford Dictionary for Indian subcontinent includes a low ranking soldier or worker, therefore, it can be understood that, 'peon' is an office messenger, attendant and usually refers to support the staff in an office/association, also known as 'office assistant'. Their duties include maintaining cleanliness, providing general support to office staff.

16. The Designation 'peon' in Government department or office is a category of post having role in day to day functioning of the office. As rightly observed by the learned APAT, nomenclature of the designation does not play major importance but duties of the 1<sup>st</sup> respondent herein-

E.Subba Rao, require consideration and continuity of his service plays important role.

17. Learned APAT has correctly addressed all the objections. Reasoning of APAT touching the eligibility of the applicant for regularization in terms of G.O.Ms.No.212 is convincing. Hence, we are of the opinion that there are no grounds to interfere with the findings and conclusions drawn by the learned APAT as to the eligibility of the applicant/1<sup>st</sup> respondent herein, for regularization in terms of G.O.Ms.No.212, dated 22.04.1994. Point framed is answered accordingly. Therefore, the Writ Petition is liable to be dismissed.

18. **In the result**, the Writ petition is dismissed accordingly. There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

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**JUSTICE B. KRISHNA MOHAN**

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**JUSTICE A.HARI HARANADHA SARMA**

Dated .07.2025  
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