



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

[3558]

**TUESDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 31902/2017

Between:

- 1.A. SRIRANGAM DORA, S/O SRI SURYANARAYANA MURTHY AGED 52 YEARS, WORKING AS PROH. & EXCISE INSPECTOR ESTF PARVATHIPURAM, VIZIANAGARAM DISTRICT
- 2.G. RAMESH BABU, S/O SRI LAXMAN RAO, AGED 56 YEARS, WORKING AS PROH. & EXCISE INSPECTOR S.H.O., PROH. & EXCISE STATION, AMUDALAVALASA, SRIKAKULAM DISTRICT
- 3.T. NAGESWARA RAO, S/O LATE GANAPATHI RAO AGED 55 YEARS, WORKING AS PROH. & EXCISE INSPECTOR S.H.O., PROH. & EXCISE STATION, V. MADUGULA, VISAKHAPATNAM DISTRICT

...PETITIONER(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, REVENUE (EX.I) DEPARTMENT, A.P. SECRETARIAT, VELAGAPUDI, AMARAVATHI (POST), GUNTUR DISTRICT, A.P.
2. THE COMMISSIONER OF PROHIBITION EXCISE, A.P., AMARAVATHI, VIJAYAWADA
3. THE DEPUTY COMMISSIONER OF PROHIBITION EXCISE, VISAKHAPATNAM, A.P
4. P R CH KUMAR, S/O P.KRISHANA APPA RAO, AGED 53 YEARS, OCC INSPECTOR, SHO SPECIAL ENFORCEMENT BUREAUSEB

VIZIANAGARAM-II STATION, VIZIANAGARAM DISTRICT

5. N SREENIVASA RAO, S/O LATE N.SRI RAMULU, AGED 56 YEARS, OCC PROH EXCISE INSPECTOR, O/O DISTRICT PROHIBITION EXCISE OFFICER, ANAKAPALLY
6. KARANAM SURESH, S/O LATE PENTANNAIDU, AGED 54 YEARS, OCC ENFORCEMENT INSPECTOR, INTELLIGENCE WING, SPECIAL ENFORCEMENT BUREAU SEB, VISAKHAPATNAM. RESPONDENTS NOS. 4 TO 6 IMPEADED AS PER COURT ORDER DT 13.09.2023 VIDE I.A.NO.1 OF 2023 IN W.P.NO.31902 OF 2017
7. BODDU VENKATA RAJU, S/O. LAKSHMANA RAO, AGED ABOUT 44 YEARS, OCC PROH. AND EXCISE SUB-INSPECTOR, E.S. SQUARE, PROH. AND EXCISE SUPERINTENDENT, COLLECTORATE, VIZIANAGARAM DISTRICT. R/O. TALAVARAM VILLAGE, VEERAGHATTAM MANDAL, PARVATHIPURAM MANYAM DISTRICT, A.P.
8. G VENKATA RAMANA, S/O. APPALA NAIDU, AGED ABOUT 37 YEARS, OCC ENFORCEMENT SUB-INSPECTOR, SEB STATION, SOMPETA, SRIKAKULAM DISTRICT. R/O. H. NO. 1-78, ALLENA VILLAGE AND POST, BURJA MANDAL, SRIKAKULAM DISTRICT, A.P.
9. METTA MOHANA RAO, S/O. APPANNA, AGED ABOUT 38 YEARS, OCC ENFORCEMENT SUB-INSPECTOR, SEB STATION, SRIKAKULAM, SRIKAKULAM DISTRICT. R/O. SUBRAMANYAPURAM VILLAGE, TOGIRI POST, JALUMURU MANDAL, SRIKAKULAM DISTRICT, A.P. RESPONDENT NO.7 TO 9 ARE IMPEADED AS PER C.O.DT.25.03.2025 VIDE I.A.NO.1 OF 2024 IN W.P.NO.31902 OF 2017.
10. PERUMALLA SANTHI LAKSHMI, D/O. P. SATTI RAJU, AGED 47 YEARS, OCC ENFORCEMENT SUB-INSPECTOR, SPECIAL ENFORCEMENT BUREAU STATION, DTF, ANAKAPALLY, ANAKAPALLY DISTRICT. RESPONDENT NO.10 WAS IMPEADED AS PER C.O.DT.25.03.2025 VIDE I.A.NO.2 OF 2024 IN W.P.NO.31902 OF 2017.

...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, Order or Direction, more particularly one in the nature of Writ of Certiorari, call for the records relating to issuance of orders dated 01/09/2017 in O.A. No. 2540 / 2017, impugned Memo No. 310986/Ex.1(I)/2016 dated 03/02/2017 of the 1st respondent and consequential Memo in CR.No. 4606/2016/CPE/C1 dated 08/02/2017 of the 2nd respondent, declare the same as illegal, arbitrary, unconstitutional and the one opposed to principles of natural justice, set aside the same such and consequently direct the respondents to effect promotions to the next higher category of Asst. Proh. & Excise Superintendents / Proh. & Excise Superintendents duly following / without disturbing the settled final seniority list of Proh. & Excise Sub-Inspectors of Zone - I issued in proceedings Rc. No. 108/2006/A2 dated 22/08/2007 of the 3rd respondent and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.

IA NO: 1 OF 2017(WPMP 39737 OF 2017)

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 suspend the orders dated 01/09/2017 in O.A. No. 2540 / 2017, impugned Memo No. 310986/Ex.1(I)/2016 dated 03/02/2017 of the 1st respondent and consequential Memo in CR.No. 4606/ 2016/CPE/C1 dated 08/02/2017 of the 2nd respondent with a further direction to the respondents to effect promotions to the next higher category of Asst. Proh. & Excise Superintendents / Proh. & Excise Superintendents duly following / without disturbing the settled final seniority list of Proh. & Excise Sub-Inspectors of Zone - I issued in proceedings Rc. No. 108/2006/A2 dated 22/08/2007 of the 3rd respondent, pending disposal of writ petition and to pass

IA NO: 1 OF 2023

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 allow the IA In W.P.No. 31902/ 2017 by permitting the proposed respondents herein to come on records as party respondents No.4 to 6 in the present W.P.No No.31902/2017 and may pass

IA NO: 2 OF 2023

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 vacate the interim order dated 19-09-2017 in WP MP No. 39737 of 2017 in WP No. 31902/2017 and dismiss the Writ Petition and pass

IA NO: 1 OF 2024

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 implead the Petitioner Proposed Respondents as Respondent No. 7 to 9 in the main Writ petition and pass

IA NO: 2 OF 2024

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 implead the Proposed Respondent No. 7 herein as party Respondent No. 7 in WP. No. 39102 of 2017 and Interlocutory Applications and pass

Counsel for the Petitioner(S):

1. K RAM REDDY

Counsel for the Respondent(S):

1. K SATYANARAYANA MURTHY
2. SRINIVASA RAO NARRA
3. EATHAKOTA VENKATA RAO
4. GP FOR SERVICES I (AP)

The Court made the following:

THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

&

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 31902/2017

ORDER: *(Per Hon'ble Sri Justice Tuhin Kumar Gedela)*

Heard,

Sri Srinivasa Rao Mortha, learned counsel representing Sri K. Ram Reddy, learned counsel for the petitioners, and learned Government Pleader for Services-I, appearing for the State.

1. Dissatisfied and embittered by the order of A.P. Administrative Tribunal, Hyderabad (hereinafter referred to as "the Tribunal") in O.A.No.2540 of 2017, dated 01.09.2017, the present writ petition is preferred by the applicants in the O.A. under challenge.

2. The case of the petitioners in the present writ petition is that they moved the Tribunal challenging the impugned Memo No.310986/Ex.I(I)/2016, dated 03.02.2017, issued by the 1st respondent and the Consequential Memo in C.R.No.4606/2016/CPC/C1, dated 08.02.2017, of the 2nd respondent. The facts are not disputed by either side that the petitioners are the promotees, and the unofficial respondents, who got impleaded through I.A.No.1 of 2023 i.e. respondent Nos.4 and 6, vide Court order dated 13.09.2023, are the direct recruits. The petitioners contended that they were initially appointed as Junior Assistants and later appointed by transfer, having gained eligibility as Prohibition and Excise Sub-Inspectors during the year 2006. The final seniority list of Prohibition and Excise Inspectors of Zone-1, Visakhapatnam, was communicated on 22.08.2007. As per the said seniority list, the names of the petitioners figure at Serial Nos.140, 143 and 156 respectively, which became final and since no appeal filed against it. Thereafter, promotions were accorded through which the 1st petitioner was promoted as Prohibition and

Excise Inspector in the year 2007, and the 2nd and 3rd petitioners were promoted in the year 2010 and left unchallenged. When there was a proposal for according promotion to the post of Prohibition and Excise Inspectors vide proceedings Rc.No.301/2013/A1, dated 07.11.2013, by the 2nd respondent and was in the process, a representation by some of the direct recruits was entertained in pursuance to the orders of this Court in W.P.No.10646 of 2006, dated 07.04.2016, and the 2nd respondent reopened the said seniority list and a consequential direction was issued to the 3rd respondent on 08.02.2017.

3. The entire case of the petitioners/applicants is that they are born promotees and were promoted to the high cadres from the post of Junior Assistant, and there was no objection whatsoever from any quarter.

4. There is no dispute that the vacant posts meant for the direct recruits were occupied by the promotees, i.e., the petitioners. The only argument advanced by the learned counsel for the petitioners is that, though the posts meant for the direct recruits were occupied by the petitioners, the same was not questioned and became final. Learned counsel for the petitioners relied upon a circular issued by the Government of Andhra Pradesh vide Circular Memo No.57759/Ser.A/2004-1, dated 20.05.2004. The said memo reiterates the observations of the Hon'ble Supreme Court which entails that "*no request for revision of seniority list for a period which is more than 3 years old shall be considered*". He also relied upon an interim order passed in W.P.M.P.No.34815 of 2017 in W.P.No.28013 of 2013, which is of similar nature, wherein this Court, as an interim measure, protected the rights of the promotees on the ground that when the *inter se* seniority has become final, based on the legal principles settled by the Hon'ble Supreme Court, it is wholly undesirable to disturb the final seniority list after more than 15 years.

5. This Court finds no doubt regarding the settled principle about the *inter se* seniority list cannot be disturbed. But in the present case, it is an admitted fact that the petitioners have occupied the posts meant for the direct recruits with a condition that the probation of the promotee occupying the post

of the direct recruit shall be commenced not from his appointment into the slot earmarked for the direct recruits, but shall be reckoned only from the date on which he occupy the vacancy meant for the promotee. Basing on the said circular issued by the State dated 21.04.1999, the petitioners have accepted the said condition and were promoted to the subsequent promotional post from the post of Junior Assistant. The circular is reproduced as under:

“GOVERNMENT OF ANDHRA PRADESH
CENTRAL ADMINISTRATION (SERVICES.A) DEPARTMENT

Circular Memo No. 16/Ser.A/93-39

Dated: 21/04/1999

Sub: P.S – Quota/Rota rule applicable only for purpose of recruitment and not for purpose of determining inter-se-seniority of the incumbents-Clarificatory Orders issued in G.O. Ms. No. 607, G.A. (Ser.A) Dept., dated 06.11.1992-Challenge before A.P.A.T in O.A. No. 22/93 and batch-Disposed of Further instructions-Issued.

Ref: 1. Govt. U.O. Note No. 16/Ser.A/93-6 dated 30.04.93

2. Govt. Memo No. 16/Ser.A/93-16 dated 06.03.96.

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The Special Rules and Adhoc Rules for certain services provide a ratio or cycle for recruitment by promotion and by transfer and for direct recruitment which are the three accepted methods of recruitment. Experience has shown that recruitment through various methods is not being done in the prescribed ratio or cycle (rota) for various reasons. In such situations and in the exigencies of administration, it has become necessary to induct persons from one source in excess of their quota. On account of this, there is an endless litigation resulting in vacancies in promotional posts remaining unfilled.

2. Rule 33 of the Andhra Pradesh State and Subordinate Service Rules regulates the seniority of the incumbents appointed to a service, class, category etc. The scope and applicability of this rule was discussed by the Supreme Court of India in Sri Dasoola Rama Rao and another Vs. State of Andhra Pradesh, Sri K Siva Reddy Vs. State of Andhra Pradesh and Sri M. Gangadharan and others Vs. State of Andhra Pradesh etc.,

3. A study of several judicial pronouncements in this regard shows that various interpretations have been placed on this quota or rota rule and the preponderance of the view taken is that the quota or rota rule is meant only for purposes of recruitment to a particular category, but not to determine the inter-se seniority of the incumbents belonging to a particular category who are appointed to the post included in that category through different methods of recruitment viz.. direct recruitment, promotion and appointment by transfer.

4. Government have, therefore, decided to issue clarificatory order in this regard. Accordingly an adhoc rule was issued in G.O. Ms. No. 607, G.A. (Ser.A) Dept., dated 6.11.92 clarifying that, the quota or rota if any prescribed in the said Special Rules or Ad-hoc Rules shall apply only for determining the number of vacancies earmarked for recruitment by promotion or appointment by transfer and for direct recruitment but not for determining their inter-se-seniority, and that their inter-se-seniority shall be determined in accordance with rule 33 (a) and (b) of the State and Subordinate Services Rules.

5. Sri P. Ganeswar Rao and others of Panchayat Raj Department have filed O.A. No. 22/93 in Andhra Pradesh Administrative Tribunal for fixing up then

inter-se-seniority, and the *ad hoc* rule issued in G.O. Ms. No. 607 G.A. (Ser.A) Dept., dated 06.11.1992 has also been challenged. Similar other O As have also been filed before the Andhra Pradesh Administrative Tribunal. The Andhra Pradesh Administrative Tribunal in their order dated 24.12.1992 in O.A. No. 22/93 have passed the following interim orders:-

"As the impugned *ad hoc* rule is likely to have far reaching effect and the G.O. Ms. No. 607, dated 6.11.92 does not indicate that the AP.P.S.C. was consulted or its copy marked for publication in the Gazette and it has not given any retrospective effect, we consider it appropriate to issue a direction that it will not affect any orders already passed or seniority for the period prior to the issue of G.O. Ms. No. 607, dated 6.11.92 and in implementation of any orders passed by the Courts, A.P.A.T. erstwhile Tribunal, subsequently to be passed by the authority in respect of period prior to the issue of *ad hoc* rules."

6. The Andhra Pradesh Administrative Tribunal in their another order dated 04.03.1993 in O.A. No. 1103/93 filed by Sri V. Naveen Chand and another has directed the Respondent No. 1 ie., Chief Secretary, General Administration Department as follows:-

"It is expected that the respondent No. 1 takes steps to either have the interim order varied or vacated after filing a counter or until so done, intimate all other Departments about the interim orders of the Tribunal which will apply to all services wherever the impugned G.O. is sought to be relied upon for taking action."

7. Accordingly, the above interim order was communicated to all the Departments of Secretariat under reference 1" cited. Subsequently the APAT in its part judgment, dated 27.04.1995 in O.A. No. 22/93 and batch held that the *Ad hoc* Rules issued in the G.O. referred above is invalid and accordingly declared it void and quashed the same. But the other contentions of the petitioners have not been disposed of by the Andhra Pradesh Administrative Tribunal.

8. The Government after examining the above orders of Andhra Pradesh Administrative Tribunal dated 27.04.1995, carried the matter in appeal to the Supreme Court of India vide SLP (c) No. 25247-249/95. The Appex Court in its interim orders dated 09.12.1995 stayed the operation of the judgment of Andhra Pradesh Administrative Tribunal dated 17.04.1995 after notice and pending further orders. This order of the Supreme Court of India has been communicated to all concerned for further action at their and in Government Memo second cited.

9. While the case is pending before the Supreme Court of India, the Andhra Pradesh Administrative Tribunal in its another order dated 11.06.1996 in O.A. No. 4917/94 and batch has pronounced judgment stating that the *ad hoc* rule issued in G.O. Ms. No. 607, G.A. (Ser.A) Deptt., dated 06.11.1992 will have overriding effect of the provisions contained in General Rules or Special Rules as the G.O. is in accordance with the judgment of the constitution bench of the Supreme Court of India rendered in Maharashtra Engineers case.

10. Subsequently the Hon'ble Supreme Court of India took up the SLP (C) No. 25247/249/95 on 20.08.1996 and dismissed the Special Leave Petition but with observations, that it is open to the petitioners to approach the Tribunal for any modification or clarification of the directions made in its orders dt. 27.04.1995 by pointing out the difficulties being faced by the petitioners and the Tribunal when so moved shall decide that application, uninfluenced by the dismissal of these Special Leave petitions on its own merits. It has also been clarified that their order shall not be construed as any expression of opinion on the merits of the case and that the order dated 27.04.1995 would be open to be questioned, if the need so arises, by either of the parties after the final disposal of the pending original applications by the Tribunal.

11. The Supreme Court of India also observed that the delay in disposal of the applications by the Tribunal apparently appears to have arisen because of the interim stay granted by this Court, which now stands vacated and therefore requested the Tribunal to dispose of the original applications expeditiously.

12. Based on the said order of the Supreme Court of India, affidavits have been filed before the Andhra Pradesh Administrative Tribunal, indicating the orders of Andhra Pradesh Administrative Tribunal dated 11.06.1996 in O.A. No. 4917/94 and batch.

13. The Andhra Pradesh Administrative Tribunal has now finally disposed of the O.A. No. 22/93, 7642/92 and batch cases in its judgment dated 01.12.1998 and up held the validity of G.O. Ms. No. 607, G.A. (Ser. A) Dept., dated 06.11.1992.

14. The Government in the light of the above judgment of the Andhra Pradesh Administrative Tribunal dated 01.12.1998 examined the matter further and issue the following clarifications:

(a) For determining the seniority of the employees, the provisions contained in Genl. Rule 33 of the Andhra Pradesh State and Subordinate Service Rules shall be followed;

(b) The seniority of a direct recruit is to be determined only from the date of his/her joining duty but not from the date on which the vacancy earmarked for a direct recruitment arose;

(c) If an employee is promoted to a post earmarked for direct recruit, his probation shall not be commenced from the date of his appointment into the slot earmarked for direct recruitment but shall be reckoned only from the date on which he would have occupied the vacancy meant for promote;

(d) The inter-se-seniority of direct recruits shall be as per the ranking assigned to them by the recruiting agency irrespective of their dates of joining provided they all joined within the time allowed for them to join as per rule 11 of the Andhra Pradesh State and Subordinate Service Rules; and

(e) The seniority lists already finalized by the various authorities based upon the Courts Judgments in individual cases which have become final shall not be disturbed if such cases are not finalized, they may be settled now as per these instructions.

15. All the Departments of Secretariat, Head of Departments, District Collectors etc., are therefore requested to follow the above guidelines while fixing the inter-se-seniority of the persons recruited through various methods of recruitment as per the respective service rules."

6. Now coming to the order of the Tribunal, this Court is absolutely satisfied with the reasons and the analogy drafted in the order. The Tribunal has taken into consideration all the Government Memos, which were in existence pertaining to the promotions to direct recruits and the promotees, including the Memo referred to above i.e., dated 21.04.1999, as followed in Government Memo No.22600/Ex.1(2)/2012-4, dated 19.08.2013, which was issued to avoid disparities among the zones and for maintaining uniformity in the State. The Tribunal has also taken note of the Government Memo dated 03.02.2017, which was under challenge, which states that the seniority in the category of post is to be fixed in terms of Rules 33(a), 33(b) or 16(h), as the case may be, keeping in view the instructions issued in Circular Memo

No.16/Ser.A/93, General Administration Department, dated 21.04.1999 (discussed above).

7. The petitioners, who are the promotees/appointees by transfer, who occupied slots meant for direct recruits in the seniority list of 2007, cannot claim seniority over and above subsequent direct recruits. The Tribunal has taken note of the final seniority list dated 22.08.2007, wherein future direct recruits are to be included in their respective slots as per the cyclic position under the Rules. Simply because promotees/appointees by transfer temporarily occupied direct recruit slots, they cannot claim seniority over and above the direct recruits. In so far as the direct recruits are concerned, their probation commences from the panel year in which they have joined, whereas probation of promotees/appointees by transfer commences thereafter, depending upon the slots in which their cyclic point is located.

8. There is no *res integra* or any cavil of doubt regarding the said legal principle, and this Court, being the pinnacle of justice, need to uphold and render justice in accordance with the law declared and therefore, the petitioners cannot obstruct the Government or the Department from revising the seniority lists, including the seniority list dated 22.08.2007, if necessary.

9. It is not the case of the petitioners before the Tribunal or before this Court that the promotees are likely to be disturbed at the instance of the other promotees or appointees by transfer and in which case, the arguments advanced by the learned counsel for the petitioners can be accepted that the settled seniority list cannot be unsettled after a period of three years as laid down by the Apex Court. But in this case, the revision of seniority lists are undertaken by placing direct recruits in their allotted slots as per cyclic points in the service rules.

10. In fine, the Writ Petition is dismissed, upholding the order of the Tribunal passed in O.A.No.2540 of 2017, dated 01.09.2017. There shall be no order as to costs.

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

CHEEKATI MANAVENDRANATH ROY, J

TUHIN KUMAR GEDELA, J

Date : -01-2026
BMS