

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

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WRIT PETITION No.31374 of 2015

Between:

Gandreddi Rajarajeswari,
W/o. Late V. Veerabhadra Rao,
Age 36 years, Anganwadi Helper,
Tondrangi Mandal,
Tuni Rural Project,
East Godavari District.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Women and Child Welfare Department,
Secretariat, Hyderabad & 3 others

.. Respondents

WRIT PETITION No.31392 of 2015

Between:

Pallala Rani Mani, W/o. D. Ratnaraju,
Aged about 35 years, Anganwadi Helper,
Rampachodavaram-7, Rampachodavaram Project,
Centre Code No.91, East Godavari District.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Women and Child Welfare Department,
Secretariat, Hyderabad & 3 others

.. Respondents

WRIT PETITION No.31394 of 2015

Between:

S. Sherbhan,
W/o. Sk. Davuji, Age 30 years,
Anganwadi Helper,
Pedamedapalli IV Code No.717,
R/o. Pedamedapalli Village,
Dattirajeru Mandal,
Gajapathinagaram Project,
Vizianagaram District.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Women and Child Welfare Department,
Secretariat, Hyderabad & 3 others

.. Respondents

WRIT PETITION No.31405 of 2015

Between:

Dasari Padma,
W/o. Murali, Age 34 years,
Anganwadi Helper,
Ingilapalli II Center Code No.405,
R/o. Ingilapalli Village,
Dattirajeru Mandal,
Gajapathinagaram Project,
Vizianagaram District.

.. Petitioner

AND

The Govt. of India,
Rep. by its under Secretary,
Ministry of Women & Child Development Dept.,
Shastri Bhawan, New Delhi-110 001 & 4 others

.. Respondents

WRIT PETITION No.31672 of 2015

Between:

G. Satyakumari, W/o. Durga Prakash Rao,
Aged about 35 years, Anganwadi Helper,
Ananthavaram Code No.280,
R/o. Mummidivaram Mandal,

East Godavari District & another

.. Petitioners

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Women Development and Child Welfare Department,
Secretariat, Hyderabad & 3 others

.. Respondents

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WRIT PETITION No.35284 of 2015

Between:

K. Vanamma, W/o. K. Ambanna,
Aged about 33 years, Anganwadi Helper,
Netravatti Village, Halaharvi Mandal,
Kurnool District & 2 others

.. Petitioners

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Women Development and Child Welfare Department,
Secretariat, Hyderabad & 3 others

.. Respondents

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AND

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WRIT PETITION No.35622 of 2015

Between:

A. Haminabee, W/o. Late Hanamanna,
Aged about 40 years, Anganwadi Helper,
Pagidyala Village, Nandikotkur Project,
Kurnool District & 3 others

.. Petitioners

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Women Development and Child Welfare Department,
Secretariat, Hyderabad & 6 others

.. Respondents

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- 1 Whether Reporters of Local newspapers Yes
 may be allowed to see the Judgments?
 - 2 Whether the copies of judgment may be Yes
 marked to Law Reports/Journals
 - 3 Whether His Lordship wish to see the Yes
 fair copy of the Judgment?

HON'BLE SRI JUSTICE P.NAVEEN RAO

**WRIT PETITION Nos.31374, 31392, 31394, 31405, 31672, 35284 & 35622 of
2015**

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COMMON ORDER:

In all these writ petitions, the petitioners are working as Anganwadi Helpers and seeking for appointment as Anganwadi Workers in the form of promotion. The petitioners challenge the recruitment notification issued to fill up

the posts of Anganwadi Workers in the respective villages where the petitioners are presently working as Anganwadi Helpers.

2. Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for respondents. With the consent of learned counsel, the writ petitions are finally disposed of.

3. Learned counsel for the petitioners submits that the requirement for recruitment to the post of Anganwadi Helper as well as Anganwadi Worker is that a person seeking such appointment should be a native of the village in which the Anganwadi Centre is located. Insofar as the Anganwadi Helper is concerned, the educational qualification required is VII Class and in case of Anganwadi Worker, a pass in X Class. The petitioners are recruited to Anganwadi Centres located in the respective villages of the petitioners. In all the villages concerning these writ petitions, there is more than one Anganwadi Centre located in each of the villages. Though there are vacancies for the post of Anganwadi Workers in the villages, but in a different Centre other than the Centre in which petitioners are actually working as Anganwadi Helpers, the petitioners are not considered on the ground that they do not belong to the same Anganwadi Centre. Learned counsel for the petitioners submits that there is no such restriction imposed in the instructions issued from time to time.

4. According to the learned counsel for the petitioners, what is required is the person should be a native of the village in which the Anganwadi Centre is located and he need not be an employee already working in the same Centre. Learned counsel refers to the instructions of the Government of Andhra Pradesh, dated 23.12.1998. The said circular instructions state that preference should be given to the eligible Anganwadi Helpers in the selection as Anganwadi Workers if they satisfy the requirements of Anganwadi Worker. Directions were issued to scrupulously follow the instructions. In Memo, dated 03.12.2010, the Project Directors were again directed to fill up the vacancies of Anganwadi Workers with eligible Anganwadi Helpers and to follow the Government instructions issued on 23.12.1998 scrupulously. The Government

issued further Memo on 05.01.2012. Para 3 of the Memo clearly states that if there is a vacancy of Anganwadi Worker in the same village where qualified Anganwadi Helper is working, she may be considered for appointment as Anganwadi Worker provided that the person fulfils the conditions laid down in the Government Circular, dated 23.12.1998. Learned counsel, therefore, submits that these instructions would clearly point out that there is no restriction imposed on consideration of Anganwadi Helper working in a village for promotion as Anganwadi Worker in the same village even if the vacancy is not in the same Centre in which the person is working as Anganwadi Helper and, therefore, non-consideration of the claim of the petitioners is *ex facie* illegal.

5. Learned counsel further contends that when there are eligible Anganwadi Helpers available, there is no justification to resort to open market recruitment to the post of Anganwadi Worker and, therefore, the impugned notifications for such recruitment is *ex facie* illegal and contrary to the instructions on the subject.

6. Learned Assistant Government Pleader contends that as per the instructions in the Government notifications, the Anganwadi Helper working in an Anganwadi Centre alone is considered for appointment as Anganwadi Worker in that centre and no other person who is not working in the same Centre can be considered for such promotion.

7. However, the learned Assistant Government Pleader fairly submits that there are no other instructions other than the three instructions which are filed along with the writ petitions and referred to and relied upon by the learned counsel for the petitioners.

8. As seen from the three instructions relied upon by the learned counsel for the petitioners, the substance of the three instructions of the Government of Andhra Pradesh would show that if an Anganwadi Helper of a village is eligible

to be appointed as Anganwadi Worker, such person should be given preference for such consideration and it has to be scrupulously followed before taking further steps. The orders of the Government emphasize consideration of Anganwadi Helper as Anganwadi Worker in preference to outsiders. Thus, a kind of absolute preference is provided. Post of Anganwadi Worker in a village can be normally be filled up by Anganwadi Helper. Unless there is no qualified Anganwadi Helper, the post cannot be filled by outsider/open market. In view of the same, when eligible Anganwadi Helpers are available, without considering their eligibility, there is no justification to go for open market recruitment. It is not the case of the respondents that the petitioners are not eligible and that the petitioners' eligibility was considered and having found that they are not qualified, the recruitment is resorted to. Though it is the assertion of learned Assistant Government Pleader that the restriction is made for such consideration only to the respective Anganwadi Centres if there is more than one Centre in a village, nothing is brought on record to show the basis of such assertion by the respondents that restriction of such consideration is confined only to respective Anganwadi Centres where the Anganwadi Helpers are working.

9. The issue of consideration of Anganwadi Helper for appointment/promotion as Anganwadi Worker has come up for consideration before Supreme Court in the case of ***State of Himachal Pradesh and others Vs. Punra Devi***. A reading of the judgment would show that administrative instructions which are termed as rules were notified by the State. Rule 4 of the said rules prescribe that consideration of persons for appointment to Anganwadi Centres should be from the feeder areas of Anganwadi Centres. In furtherance to the said rules notified on 19.06.2010, further instructions were issued on 10.05.2012 by the Himachal Pradesh Government, which *inter alia* prescribes the consideration of Anganwadi Helper of a particular Anganwadi Centre for appointment as Anganwadi Worker. It, thus, appears that in Himachal Pradesh, the instructions are very clear that only an Anganwadi Helper in an Anganwadi Centre alone is entitled to be considered for appointment as Anganwadi Worker in that centre and not outsiders. Considering the said rules/instructions of Himachal Pradesh Government, the

Hon'ble Supreme Court held that a direction to consider the respondents therein for appointment as Anganwadi Worker of a different Centre though of the same village as not valid in law and the appeal filed by the State of Himachal Pradesh was allowed.

10. As noticed above, in the instant case, there are only three instructions of the State Government governing appointment of Anganwadi Workers. These three instructions, more particularly the last of the instructions, dated 05.01.2012, clearly point out that an Anganwadi Helper of a village is entitled to be considered for appointment as Anganwadi Worker in the same village and no further restriction is imposed. Thus, the restrictions as imposed in Himachal Pradesh, i.e., consideration of an Anganwadi Helper of the same Anganwadi Centre is not imposed in the State of Andhra Pradesh. I am, therefore, of the opinion that the principle laid down by the Supreme Court in the above decision has no application in view of the specific instructions issued by the State of Andhra Pradesh.

11. As clarified by the learned Assistant Government Pleader, insofar as recruitment to the post of Anganwadi helpers and Anganwadi Workers are concerned, though the scheme is evolved by the Government of India and the financial burden is shared by the Central Government and the State Governments in the ratio of 75:25, the recruitment policy is left to be decided by the respective States. Thus, insofar as the State of Andhra Pradesh is concerned, as evident from the three circulars relied upon by the learned counsel for the petitioners, the restriction is only residency in the concerned village and not the feeder areas of the respective Anganwadi Centres within the village. Thus, as long as eligible Anganwadi Helpers were available in a village, there is no justification in resorting to the open market recruitment to fill up the vacancies of Anganwadi Workers in the respective villages. Said decision is contrary to the orders of the Government on the subject.

12. Accordingly, the recruitment notifications challenged in all the writ petitions are set aside and consequently, the respondents are directed to

consider the petitioners for appointment/promotion as Anganwadi Workers in the respective villages subject to their eligibility and suitability in the existing vacancies of the respective villages. Such consideration shall be completed within a period of four (4) weeks from the date of receipt of copy of the order. The Writ Petitions are, accordingly, allowed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 16th November, 2015

Note: L.R. copy to be marked.

(B/o.)

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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**WRIT PETITION Nos.31374, 31392, 31394, 31405, 31672, 35284 & 35622 of
2015**

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Date: 16th November, 2015

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