

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

**WRIT PETITION Nos. 20636, 21345 OF 2017, 6019, 42080
AND 45900 OF 2018**

AND

**WRIT PETITION (TR). Nos. 13, 19, 24, 34, 18, 14, 17, 28, 20,
25, 12, 38, 23, 11, 16, 30, 35, 26, 40, 31, 36, 37, 39, 33, 32,
22, 21, 27, 15 AND 29 OF 2020.**

DATED : 03.02.2020

W.P.No.20636 of 2017 :

Between :

Sri T.Subba Rao,
S/o.T.Venkata Ramana, Aged about 29 yrs,
C/o.J. Jayanand, R/o.Flat No.101,
Vijetha Prameela Pride, Durga Nagar,
Beside Hotel Brundavan, Dilsukhnagar,
Hyderabad.

..... Petitioner

And

The State of Telangana,
rep. by its Principal Secretary,
Home Department, Secretariat Buildings,
Hyderabad & others.

.....Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

**WRIT PETITION Nos. 20636, 21345 OF 2017, 6019, 42080
AND 45900 OF 2018**

AND

**WRIT PETITION (TR) SR.Nos. 96009, 96024, 96025, 96028,
96032, 96033, 96034, 96038, 96049, 96057, 96058, 96059,
96061, 96062, 96068, 96069, 96072, 96074, 96075, 96076,
96080, 96082, 96085, 96090, 96091, 96092, 96093, 96094,
96096 AND 96097 OF 2017.**

COMMON ORDER :

In all these writ petitions, some of which are transferred from the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal'), consequent to abolition of the Tribunal, petitioners challenge the order of removal from service as Home Guards. In some of the O.As/W.Ps., there is inordinate delay in institution of O.As/W.Ps.

2. Having regard to the principle laid down by the Division Bench of this Court in the **State of Andhra Pradesh Vs P.Prasad Rao¹**, and the subsequent judgment of the Division Bench in W.P.No.35460 of 2013 and Batch, dated 08.06.2018, learned Government Pleader, does not seriously oppose the issue of delay in preferring the O.As/W.Ps.

3. All the Counsel agree for disposal of the Writ Petitions, in terms of the judgment dated 08.06.2018 rendered by this Court in W.P.No.35460 of 2013 and Batch, as affirmed by the Hon'ble Supreme Court in Special Leave Petition (Civil).... Diary No(s).14162/2019, dated 26.07.2019.

4. However, learned Counsel, Sri K. Rama Subba Rao, sought to contend that petitioners are subjected to the same amount of physical fitness test that can be administered on young persons,

¹ 2012 (1) ALD 76 (DB)

whereas having regard to the present age of many of the petitioners, the same rigorous physical efficiency test cannot be conducted and there should be some relaxed standard. This is the only issue that requires consideration.

5. Before considering the said issue, it is apt to note the operative directions of this Court in W.P.No.35460 of 2013 and Batch :

“On the above analysis, the writ petitions are dismissed but subject to the following conditions :

1. The first respondents-applicants in all these cases shall be subjected to a physical test to ascertain their fitness before being reinducted in service as Home Guards. An objective and transparent procedure shall be adopted by the State and its Police officials in this regard and all deserving candidates shall again be enrolled on the rolls of the Home Guards Organization.

2. Enrollment of such deserving candidates shall, however, not have the effect of conferring upon them the benefit of continuity of service, seniority, arrears of pay etc. for all purposes. Their enrolment would be on par with fresh appointments.”

6. It appears, in some of the writ petitions disposed of, by the Division Bench, the orders of the Tribunal were not set aside/modified, whereas the direction issued by the Tribunal for reinstatement remained intact.

7. While upholding the directions of the Division Bench extracted above, the Hon’ble Supreme Court in Special Leave Petition (Civil).... Diary No(s).14162/2019, held as under :

“However, in view of the judgment of the High Court dated 08.06.2018 in Writ Petition No.35460 of 2013 etc. etc. (The Government of Andhra Pradesh and others Vs K.Bala Krishna and Anr.) delivered by the High Court in Bunch of writ petitions relating to Home Guards wherein the High Court had

directed the respondents-Home Guards to undergo physical test to ascertain their fitness before being reinstated in the service as Home Guards, the same process be also adopted with regard to respondents before reinstating the respondents. The special leave petition against the above judgment dated 08.06.2018 has been dismissed by us on 10.12.2018.”

8. Further, in the operative directions, the Division Bench, observed that the assessment of physical fitness should be “Objective and Transparent”. Thus, the interest of petitioners is sufficiently safeguarded. In the individual cases, if the assessment is not made objectively or transparently, it is for the individuals to assail such assessment by availing appropriate remedy, but this Court cannot give directions, contrary to the directions already issued and specify a particular mode of physical fitness assessment. Having regard to the directions issued by the Division Bench of this Court, as affirmed by the Hon’ble Supreme Court, the contention of learned counsel Sri K.Rama Subba Rao, that assessment of physical fitness should be having regard to the present age of the petitioners and therefore, there must be some relaxation in assessment of the standards of fitness, whereas the respondents are subjecting the petitioners to same amount of physical fitness assessment, as applicable to the younger persons at the time of initial induction as Home Guards is rejected.

9. Accordingly, the Writ Petitions and Writ Petition (TRs) are disposed of. The respondents shall take steps to conduct physical fitness test by putting the petitioners on notice in advance, and spread over schedule of conducting physical fitness test, so that there would be no bulk assessment of fitness of Home Guards, on a single day, The entire exercise shall be completed within a period

of three months from the date of receipt of copy of this order.

Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

3rd February, 2020
Rds

