

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA
AND
THE HONOURABLE SRI JUSTICE N.TUKARAMJI**

WRIT APPEAL NO: 511 OF 2021

Writ Appeal under clause 15 of the Letters Patent Appeal Preferred Against Order Dated 14/06/2021 passed in W P No 14926 OF 2020 on the file of the High Court.

Between

1. The State of Telangana, Rep. by its Principal Secretary, Department of Home, Secretariat, 9th Floor, Bargaala Rama Krishna Rao Bhavan, NH-44, Hill Fort, Adarsh Nagar, Hyderabad, Telangana State.

2. The Telangana State Level Police Recruitment Board, Rep. by its Chairman, Telangana State Police Headquarters, Lakdikapul, Rd, Opposite Ravindra Bharathi, Red Hills, Lakdikapul, Hyderabad, Telangana-500004

And

Appellants / Respondents

1. Narimella Vanshi, S/o Ramana, Aged about 28 years, Occ: Unemployed, R/o H.No.1-5-8/2, Sofi Nagar, Mandal:Nirmal, Nirmal District, Telangana State - 504106, Registration No:1426974, Hall Ticket No:4307269, FWE Marks: 118 (CIVIL), Community: BC-B

2. Aila Anitha, D/o Veeraswamy, Aged about 26 years, Occ: Unemployed, R/o H.No.4-136/A, Chetpur Village, Mandal: Lingalaghampur, Warangal District, Telangana State - 506303, Registration No:1186045, Hall Ticket No:4311100, FWE Marks:106 (CIVIL), Community: BC-B

3. Chinthala Ramadevi, D/o Sarmaiah, Aged about 25 years, Occ:Unemployed, R/o H.No.1-44/1, Dharmaram Village, Mandal:Parkal, Warangal District, Telangana State-506391, Registration No:1412829, Hall Ticket No:4312324, FWE Marks:106 (CIVIL), Community: BC-D

4. K.Chennakeshavulu, S/o Kurmaiah, Aged about 27 years, Occ: Unemployed, R/o H.No.8-75, Kanchukota, Dhanwada Village, & Mandal: Mahabubnagar District, Telangana State-509205, Registration No:1155669, Hall Ticket No:3516243, FWE Marks:94, PET Marks: 51, Community: BC-D

5. Voggu Sai, S/o Kanakaiah, Aged about 25 years, Occ:Unemployed, R/o H.No.9-63, Pullur Village, Mandal: Siddipet, Medak District, Telangana State-502107, Registration No:1318118, Hall Ticket No:3406344, FWE Marks:100, PET Marks: 51, Avg. Marks: 101 (TSSP), Community: BC-D

6. Gorla Srikanth, S/o Lingaiah, Aged about 24 years, Occ:Unemployed, R/o H.No.4-83/1, Arepally Village, Mandal: Jusuabed, Karimnagar District, Telangana State-4505271, Registration No:1173411, Hall Ticket No:4505271, FWE Marks:109, PET Marks: 46.50, Avg Marks: 101 (TSSP), Community: BC-D

7. Nakkala Sravan Kumar, S/o Laxmi Narasiah, Aged about 27 years, Occ:Unemployed, R/o H.No.4-121/8, Marrur Village, Mandal: Nakrekal, Nalgonda District, Telangana State-508211, Registration No:1045379, Hall Ticket No:3609141, FWE Marks:112, PET Marks: 44.25, Avg Marks: 100.25 (TSSP), Community: BC-B

8. Dasari Amarendra, S/o Janardhan, Aged about 27 years, Occ:Unemployed, R/o H.No.3-69, Chinthapally Village, Mandal: Dandepally, Adilabad District, Telangana State-504215, Registration No:1205250, Hall Ticket No:4507271, FWE Marks:94, PET Marks: 53.25, Avg Marks: 100.25 (TSSP), Community: BC-B

9. Gugulothu Gopal, S/o Latchu, Aged about 24 years, Occ:Unemployed, R/o H.No.1-9, Pokalagudem Village, Mandal: Chandragouda, Khammam District, Telangana State-507166, Registration No:1361462, Hall Ticket No:4309924, FWE Marks:106, PET Marks: 47.25, Avg Marks: 100.25 (TSSP), Community: ST

10. Banne Narasimha Rao, S/o Venkateswara Rao, Aged about 28 years, Occ:Unemployed, R/o H.No.4-7/8, Ramachandra Rao Banjara Village, Mandal: Jenubally, Nalgonda District, Telangana State-507302, Registration No:1390477, Hall Ticket No:3312021, FWE Marks:96, PET Marks: 52.25, Avg Marks: 100.25 (TSSP), Community: BC-B

11. Yangali Sridhar, S/o Yadagiri, Aged about 27 years, Occ:Unemployed, R/o H.No.2-71, Itukulapahad Village, Mandal: Shaligouraram, Nalgonda District, Telangana State-508210, Registration No:1223573, Hall Ticket No:3610085, FWE Marks:109, PET Marks: 45.75, Avg Marks: 100.25 (TSSP), Community: BC-B

12. Nuli Bhaskar, S/o Ranganayakulu, Aged about 24 years, Occ:Unemployed, R/o H.No.3/901, Gowthvaran Village, Mandal: Racherla, Prakasam District, Andhra Pradesh State-523368, Registration No:1177878, Hall Ticket No:4410069, FWE Marks:96, PET Marks: 54, Avg Marks: 102 Open 20 % (TSSP), Community: OC

13. Bathula Nagaraju, S/o Srinu, Aged about 29 years, Occ:Unemployed, R/o H.No.3/49, Markkepalli Village, Mandal: Chintakani, Khammam District, Telangana State-507208, Registration No:1096145, Hall Ticket No:3324477, FWE Marks:93, PET Marks: 51.75, Avg Marks: 93.25 (TSSP), Community: BC-A

14. J.Jayashankar, S/o Somla, Aged about 27 years, Occ:Unemployed, R/o H.No.3-72, Lahadurguda Village, Mandal: Shamshabad, Rangareddy District, Telangana State-501218, Registration No:1209771, Hall Ticket No:4502521, FWE Marks:98 (Civil), Community: ST

15. Kanthalapally Mahesh, S/o Bikkiah, Aged about 25 years, Occ: Unemployed, R/o H.No.3-1/2, Kurmed Village, Mandal: Chintapally, Nalgonda District, Telangana State-508250, Registration No:1031366, Hall Ticket No:3610334, FWE Marks:96, PET Marks: 48.75, Avg Marks: 96.75 (TSSP), Community: SC

16. Kandula Siva, S/o Venkateswarlu, Aged about 27 years, Occ: Unemployed, R/o H.No.4-56, Thallampadu, Mandal: Khammam Rural, Khammam District, Telangana State-507170, Registration No:1168091, Hall Ticket No:3315259, FWE Marks:90, PET Marks: 51.75, Avg Marks: 96.75 (TSSP), Community: SC

17. Chanvally Srilatha, D/o Dasharatha, Aged about 27 years, Occ: Unemployed, R/o H.No.9-21, Aloor Village, Mandal: Chevella, Rangareddy District, Telangana State-501503, Registration No:1221858, Hall Ticket No:4308573, FWE Marks:83 (Civil), Community: BC-B

18. Beeru Suresh, S/o Bixapathy, Aged about 27 years, Occ: Unemployed, R/o H.No. 3-5-24/1, Mahabubabad Village, Mandal: Mahabubabad, Mahabubabad District, Telangana State-506101, Registration No:1203711, Hall Ticket No. 3813315, FWE Marks: 104 (civil), 100.75 (TSSP), Community: BC-D.

19. Gangadari Purnachander, S/o G. Venkataiah, Aged about 28 years, Occ: Unemployed, R/o H.No. 2-3-35/2, Mahabubabad Village, Mandal: Mahabubabad, Mahabubabad District Old Warangal District, Telangana State - 506101, Registration No:1379609, Hall Ticket No:3805330, FWE Marks:103(Civil), 98(TSSP), PET-46.5, Community: BC-A.

20. Bandi Ashok, S/o Komuriah, Aged about 27 years, Occ: Unemployed, R/o H.No.2-7, Annanagurthi Village, Saidapur Mandal, Karimnagar District, Telangana State-505480, Registration No. 1072972, Hall Ticket No. 3907232, FWE Marks 99(TSSP), Community: ST.

21. Sandrala Suresh, S/o Lakshmaiah, Aged about 28 years, Occ: Unemployed, R/o H.No. 2-6, Nelamarry Village, Mandal: Munagala, Nalgonda District, Telangana State - 508213, Registration No- 1335809, Hall Ticket No- 3604136, FWE Marks-100.75 (TSSP) Community: BC-D, Job Missed By - 0.25 Marks.

... Respondents / Petitioners

IA NO: 2 OF 2021

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 operation of the order dated 14/06/2021 passed in WP No. 14926 of 2020 by the learned Single Judge pending disposal of the main Writ Appeal.

Counsel for the Appellants: SRI. M.V. RAMA RAO, SPL. GOVERNMENT PLEADER

Counsel for the Respondent Nos. 1 to 17: SRI. MAMIDI AVINASH REDDY

Counsel for the Respondent Nos. 18 to 21: SRI. SRAVAN KUMAR PURELLA

The Court delivered the following:

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE N. TUKARAMJI

WRIT APPEAL No.511 of 2021

JUDGMENT: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

The present writ appeal is arising out of order dated 14.06.2021 passed in W.P.No.14926 of 2020 by the learned Single Judge.

The undisputed facts of the case reveal that the writ petitioners have participated in the process of selection pursuant to the notification dated 31.05.2018 issued by the present appellants/respondents in the main writ petition in respect of as many as 1370 vacancies. The facts further reveal that after the process of selection was concluded, large number of candidates have not joined the posts at all and those posts are not being filled up by the persons, who have participated in the process of selection, keeping in view their placement in the process of selection.

Learned counsel for the State Government as well as the Telangana State Level Police Recruitment Board have vehemently argued before this Court that in case a person has not joined, the vacancy has to be carried forward to the next selection.

The facts of the case make it very clear that it is not a case where appointment orders were issued, persons have joined the post and persons have left thereafter. It is a case where the vacancies were never filled at all. The issue involved in the present

case stands considered by this Court in W.A.No.533 of 2021 and other connected writ appeals decided on 26.10.2021 and the common judgment delivered in the aforesaid cases is reproduced as under:

The present writ appeals are arising out of a common order passed in W.P.No.9626 of 2019 and batch dated 24.06.2021.

The facts of the case reveal that various notifications were issued from time to time by the Public Service Commission, State of Telangana, and the selected lists were forwarded to the State Government for issuing consequential appointment orders. The details of various advertisements, which were subject matter of various writ petitions, are reproduced as under:-

"TELANGANA STATE PUBLIC SERVICE COMMISSION: HYDERABAD

Rule 6A Common Orders Disposed on the following WP's dated:24/06/2021 in various Recruitment

S. No	W.P. NO.(S)	Filing Date	Name of the Petitioner	Notification No.	Post Applied	Unit List	Recruitment Status
1.	WP.No.9626/2019	29/04/2019	M. Swathi	14/2017	TGT (Science) in REIS	12/06/2019	Final Results Declared on 12/02/2019.
2.	WP.No.13700/2019	24/06/2019	K. Devika	53/2017	School Asst. (Physical Education) in TRT	03/04/2019	Final Results Declared on 19/01/2019
3.	WP.No.14590/2019	15/07/2019	D. Rajini & 10 others	54/2017	Lang. Pandit (Telugu) in TRT	28/03/2019, 03/02/2020, 03/02/2021 & 03/05/2021	Final Results Declared on 22/04/2021
4.	W.P.3356/2020	17/02/2020	K.Suryakal a	54/2017	Lang. Pandit (Telugu) in TRT	28/03/2019, 03/02/2020, 03/02/2021 & 03/05/2021	Final Results Declared on 22/04/2021
5.	WP.No.19222/2019	03/09/2019	Kore Anjali & Vislavath Sravanthi	52/2017	School Asst. - Social Studies (T/M)	02/12/2020	Final Results Declared on 22/04/2021
6.	WP.No.19242/2019	03/09/2019	P. Shiva Kumar	54/2017	School Assistants - Telugu-52/2017 (Language Pandit - Telugu)	28/03/2019, 03/02/2020, 03/02/2021 & 03/05/2021	Final Results Declared on 03/07/2020 & 22/04/2020
7.	WP.No.19848/2019	03/09/2019	G.Ramesh	52/2017	School Asst. - Social Studies	04/05/2021	Final Results Declared on 22/04/2021
8.	WP.No.19278/2019	03/09/2019	Kondrapalli Srinu	52/2017	School Asst. - Physical Science	03/02/2021	Final Results Declared on 19/01/2021
9.	WP.No.19337/2019	03/09/2019	D.Damodar Reddy	52/2017	School Asst. - Biological Science	17/08/2020	Final Results Declared on 03/07/2020
10.	WP.No.20566/2019	16/09/2019	Syed Jamey	53/2017	SGT (Urdu Medium) in TRT	08/05/2020	Final Results Declared on 27/05/2020
11.	WP.No.1434/2020	23/01/2020	A.Shalaja & 23 others	53/2017	SGT in TRT	30/03/2021	Final Results Declared on 16/03/2021

12.	W.P.1884/2020	29/01/2020	V. Jangaiah	08/2018	H.W.O. Grade -2	07/01/2020	Final Results Declared on 30/12/2019 01/01/2020
13.	W.P.5455/2020	10/03/2020	Alreddy Ramadevi	7/2018	HWO	06/01/2020	Final Results Declared on 30/12/2019 04/01/2020
14.	W.P.No.9511/2020	03/07/2020	Ch. Koteswar Rao	7/2018	Hostel Welfare Officer	06/01/2020	Final Results Declared on 30/12/2019 04/01/2020
15.	W.P.No.8198 of 2020	11/06/2020	G.Srikanth	20/2017	Librarian (School) in REIS	14/09/2019	Final Results Declared on 27/08/2019
16.	WP.No.24159/2020	28/12/2020	A.Uday Kumar	20/2017	Librarian (School) in REIS	14/09/2019	Final Results Declared on 27/08/2019
17.	WP.No.13039/2020	14/08/2020	Ganikidi Padma	20/2017	Librarian (Jr college) & (Lib.Schools) in REIS	14/09/2019	Final Results Declared on 27/08/2019
18.	WP.No.13074/2020	14/08/2020	Swetha Thota	20/2017	Librarian (School) in REIS	14/09/2019	Final Results Declared on 27/08/2019
19.	WP.No.13887/2020	24/08/2020	B.Ashok Kumar	12/2018	Mandal Planning/AS O	25/07/2019	Final Results Declared on 22/07/2019
20.	W.P.No.9840/2020	02/07/2020	Vanda Chandana	23/2018	Processing Supervisor	28/03/2019	Final Results Declared on 05/10/2019

The petitioners came up before this court stating that they were selected in the process of selection. However, their names have not been forwarded to the State Government for appointment against the vacancies advertised and the respondents have not followed Rule 6(A) of the Telangana State Public Service Commission Rules (for short 'the Rules'). The learned Single Judge has allowed the writ petitions and has held that the respondent/Public Service Commission is under obligation to follow the statutory provisions as contained in Rule 6(A) of the Rules.

Paragraph 9 of the order passed by the learned Single Judge reads as under:-

"9. This Court, having considered the rival submissions made by learned counsel for the respective parties, is of the considered view that since the issue raised in these writ petitions is squarely covered by the judgments rendered by this Court in W.P.No.7117 of 2020 dated 11.08.2020 and W.P.No.4495 of 2019 dated 11.05.2019 and as confirmed vide judgment dated 03.07.2019 in W.A.No.551 of 2019, these writ petitions can be disposed of directing the Public Service Commission and the State Government to fill up all the unfilled vacancies strictly by following Rule 6(A) of the Telangana State Public Service Commission Rules. It is made clear that the vacancies, which were relinquished by the selected candidates, after giving appointment orders, those vacancies have to be tagged on to the next recruitment notification and the vacancies, which are still lying vacant even after issuance of appointment orders, those vacancies are to be filled up strictly by following Rule 6(A) of the Telangana State Public Service Commission Rules and the same should be offered to the next meritorious candidates in the order of merit."

Learned counsel appearing for the Telangana State Public Service Commission has argued before this court that so far as the learned Single Judge has directed the Public Service Commission and the State Government to follow Rule 6(A) of the Rules, there is no quarrel about it. However, his contention is that in case after issuance of an appointment order, if a person has not joined the post,

then it has to be carried forward to the next recruitment notification and the same post cannot be filled up by the process of selection, which is the subject matter of the writ petitions.

Rule 6(A) of the Rules is reproduced as under:-

6-A. Notwithstanding anything contained in adhoc Rule issued in G.O.No.544, G.A(Ser.A) Department, Dated 04.12.1998, any candidate whose name has been included in a selection list in a direct recruitment prepared by the Commission, on enquiry by the Commission, may relinquish his claim for appointment in writing in the proforma prescribed by the Commission. The Commission shall thereupon remove the name of such candidates from the selection list and select any other candidate according to rules. The candidate whose name has been so removed from the selection list shall be informed of such removal by the Commission and shall have no right for the said appointment in future with reference to the said selection.

Provided this provision is applicable only when a single category of posts is notified in a notification and not applicable to a notification where multiple categories of posts are notified. However, it shall be ensured that the list shall not be operated for any additional vacancies indicated by the Government Departments. The selection list for the purpose of selecting candidates in place or relinquished candidate/candidates shall be operated only till the next notification is issued or for a period of one year, whichever is earlier.

Learned counsel appearing for the Telangana State Public Service Commission has argued before this court that they have complied with the statutory provisions as contained in Rule 6(A) of the Rules and the same has seriously been disputed by the other side.

Whether compliance of Rule 6-A of the Rules has been done or not has to be looked into in each and every individual case. The learned Single Judge has also gone to the extent in holding that the vacancies which are lying even after issuance of appointment orders, meaning thereby on account of non-joining of the candidates, are to be filled up in accordance with Rule 6(A) of the Rules. However, Rule 6 of the Rules provides that in case a candidate does not join pursuant to issuance of appointment order, the fallout vacancies, if any, due to relinquishment and non-joining of selected candidates shall be notified in the next recruitment. Therefore, to that extent, the order passed by the learned Single Judge is contrary to the statutory provisions as contained in Rule 6 of the Rules.

Resultantly, the order passed by the learned Single Judge is set aside. The matter is remanded back to the writ court to deal with each and every individual writ petition, in order to give a finding of fact whether Rule 6(A) of the Rules has been complied with or not. The parties shall appear before the learned Single Judge on 29.10.2021. The learned Single Judge is requested to decide the matters as expeditiously as possible, preferably within a period of thirty days from today, keeping in view the fact that the petitioners are running against time and by efflux of time, their right to the post will come to an end.

With the aforesaid, the Writ Appeals stand disposed of.

The miscellaneous applications pending in this writ appeal, if any, shall stand closed."

In the considered opinion of this Court, keeping in view the aforesaid judgment, once a vacancy is advertised and the vacancy is unfilled, as the person in whose favour appointment order has been issued has not joined, the same cannot carry forward to the next selection. The next person in the waiting list should be appointed against the vacancy. However, in cases where appointment orders were issued, persons have joined and left thereafter, then the particular vacancies have to be carried forward to the next selection and therefore, this Court does not find any reason to interfere with the order passed by the learned Single Judge.

Accordingly, the writ appeal is dismissed.

Miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

SD/-M.RAMANA KRISHNA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to Sri. A.V. Rama Rao, Spl. Government Pleader [OPUC]
2. One CC to Sri. Mamidi Avinash Reddy, Advocate [OPUC]
3. One CC to Sri. Bravan Kumar Purella, Advocate [OPUC]
4. Two CCs to GF for Home, High Court for the State of Telangana. [OUT]
5. Two CD Copies
6. One Spare Copy

PM
BS

4/1/0

HIGH COURT

DATED:31/12/2021

JUDGMENT

WA.No.511 of 2021



Dismissing the WA
Without costs.

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14/2/22
HWS