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APHC010190542025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3543]
(Special Original Jurisdiction)

WEDNESDAY, THE 18th DAY OF NOVEMBER 2026

PRESENT

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No: 10227 of 2025

Between:

1. PASUMARTHI RAVI, S/o. DEVASAHAYAM, AGED ABOUT 39 YEARS, R/o.D.No.2-89, NEAR ITI COLLEGE EAST GATE, JAGGADIGUNTAPALEM, TENALI MANDAL, GUNTUR DISTRICT, A.P.

...PETITIONER

AND

1. HIGH COURT OF ANDHRA PRADESH, REP. BY THE REGISTRAR (GENERAL), NELAPADU, AMARAVATHI, GUNTUR DISTRICT, A.P.
2. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, DISTRICT COURT COMPLEX, GUNTUR MEDIAL COLLEGE ROAD, GUNTUR, GUNTUR DISTRICT, A.P.
3. THE PRINCIPAL CIVIL JUDGE COURT JUNIOR DIVISION, SATTENAPALLI, MAIN ROAD, SATTENAPALLI TOWN, PALNADU DISTRICT.

...RESPONDENT(S):

Counsel for the Petitioner:

Mr.SRINIVASA RAO NARRA

Counsel for the Respondent(S):

Mr. VIVEK CHANDRA SEKHAR S

The Court made the following order: *(Per NJS, J)*

Petitioner herein was selected for the post of Office Sub-ordinate, pursuant to Notification No.10 / 2022-RC dated 21.10.2022 issued by the 1st respondent. On 29.04.2023, the 2nd respondent appointed the petitioner in the said post i.e., Category-17 of the Andhra Pradesh Judicial Ministerial Service Rules, 2019 (for short 'the A.P.J.M.S.Rules, 2019) on temporary basis and posted him in the Court of Principal Civil Judge (Junior Division), Sattenapalli.

2. Petitioner joined the duty on 01.05.2023 and while he was on probation, the 2nd respondent *vide* impugned Proceedings dated 22.03.2025 discharged him from service invoking Rule 17 (ii) (a) of Andhra Pradesh State and Sub-ordinate Service Rules, 1996 (for short 'A.P.S. & S.S. Rules') r/w Rule 14 (3) (ii) of the A.P.J.M.S.S. Rules, 2019. Aggrieved by the said proceedings, the petitioner filed the present writ petition.

3. Heard Mr.Narra Srinivasa Rao, learned counsel for the petitioner. Also heard Mr.S.Vivek Chandra Sekhar, learned counsel representing the respondents. Perused the material on record.

4. Learned counsel for the petitioner while assailing the impugned proceedings, made elaborate submissions to impress upon the Court that the same is unsustainable and liable to be set aside. Drawing the attention of this Court to the said Proceedings dated 22.03.2025 discharging the petitioner from service, the learned counsel mainly contended that the said proceedings would not amount to a discharge simplicitor. Allegations made therein against

the petitioner and the action taken with reference to the same, attaches a stigma and in such circumstances, discharge of the petitioner from service without conducting any enquiry is violative of Article 311 (2) of the Constitution of India. Therefore, the Proceedings dated 22.03.2025 does not stand scrutiny of law. He also contended that without following the Rules enumerated in the Andhra Pradesh Judicial Ministerial Sub-ordinate Service Rules, 2019, impugned proceedings have been issued discharging the petitioner and the same are therefore liable to be set aside, including on the ground of violation of principles of natural justice. Further that under compelling circumstances, the petitioner was absent to his duties, more particularly to take care of petitioner's daughter health and without taking into the relevant aspects into consideration and without conducting any enquiry, the 2nd respondent issued the impugned proceedings by recording conclusions, and it is stigmatic in nature. Making the said submissions and relying on the following decisions, learned counsel seeks to allow the writ petition by setting aside the order under challenge.

1. The Commissioner of Intermediate Education, A.P., Hyderabad & Ors., v. K.V.R.Srinivasu and others (W.P.No.866 of 2024, dated 29.01.2026)

2. K.Rajaiah v. The High Court for the State of Telangana[1]

3. The Manager, S.M.U.P.School & Ors., v. M.Noushad & Ors. (Orders of Hon'ble Supreme Court in Civil Appeal No.3788 of 2017 dated 27.02.2025)

[1] 2026 INSC 142

4. Surekha Domaji Bele vs. Executive Engineer, Testing Division, MSEDCL[2]

5. On the other hand, learned counsel for the respondents made submissions to sustain the orders passed against the petitioner. It is *inter alia* contended that the writ petitioner was appointed temporarily as an Office Sub-ordinate and as mentioned in the proceedings of appointment, the same is purely on temporary basis, pending receipt of antecedents' verification report from police and it does not confer any right. Further that services are liable to be terminated at any time without issuing any notice or assigning any reasons whatsoever. It is contended that admittedly, the writ petitioner was on probation, which is for a period of two years and discharged for unsatisfactory performance, that the 2nd respondent rightly invoked Clause (a) (ii) of Rule 17 of A.P.S. & S.S.Rules, 1996 r/w Rule 14 (3) (ii) of the A.P.J.M.S.S. Rules, 2019. It is submitted that in the light of the specific powers conferred under the said Rules i.e., the discharge proceedings by recording specific reasons is in accordance with the statutory provision, does not suffer any illegality, much less on the premise that no enquiry was conducted.

6. It is also his contention that despite repeated warnings, the petitioner failed to change his habit of unauthorized absence, and the petitioner's performance was not satisfactory. Further, the petitioner absconded from duties for 9 months, made allegations against the Judicial Officer and person of this attitude is not fit for the post. Taking the specific behavioral issues, the

[2] 2026 INSC 639

petitioner was discharged, in view of unsatisfactory performance of duties as contemplated under 1st part of Rule 14 (3) (ii) of the A.P.J.M.S.S. Rules, 2019. In terms of the appointment proceedings he cannot claim right over employment and petitioner was simply let off, without any punitive action. He further contended that the discharge of the petitioner from service in such circumstances, does not call for conduct of enquiry nor the same casts stigma. Distinguishing the judgments relied on behalf of the petitioner and referring to the decisions of the Hon'ble Supreme Court in **Parshotam Lal Dhingra v. Union of India**[3] and **Bishan Lal Gupta v. The State of Haryana & Others**[4]**,** learned counsel submitted that as Rule 17 (a) (ii) of A.P.State & Sub-ordinate Service Rules stipulates that reasons must be recorded in writing, the disclosure of facts is in compliance with the statutory requirement and the behavioural reports were taken as a motive, therefore the impugned proceedings are legally sustainable. Further as stated in the counter-affidavit, after examining the matter with reference to the material on record, the discharge proceedings were issued by assigning cogent reasons. Under the said circumstances and as scope of judicial review under Article 226 of the Constitution of India is limited, the writ petition is liable to be dismissed. Accordingly, he seeks dismissal of the writ petition.

[3] (1957) 3 SCC 316
[4] (1978) 1 SCC 202

7. On an appreciation of rival contentions, the point that arises for consideration is:

> Whether the impugned proceedings of discharge dated 22.03.2025 invoking Rule 17 (a) (ii) of A.P.State and Sub-ordinate Service Rules, 1996 r/w Rule 14 (3) (ii) of the A.P.J.M.S.S. Rules, 2019 is not sustainable and liable to be set aside as it is punitive in nature, stigmatic and violative of principles of natural justice?

8. Before answering the point formulated for determination, it may be appropriate to refer to the Rules, which are relevant to the issue on hand.

9. A.P.J.M.S.S.Rules, 2019 provides for Method of Appointment etc., in respect of various categories of posts setout therein including Office Sub-ordinate / Attender (Category-17). Rule 13 of the said Rules deals with **Probation** and provides as follows:

(a) Every person appointed by direct recruitment to any post in the service shall, from the date on which he commences probation, be on probation for a total period of two years on duty within a continuous period of three years.

(b) Every person appointed to any of the posts either by promotion or by transfer shall, from the date on which he / she commences probation, be on probation for a total period of one year on duty within a continuous period of two years.

10. Rule 14 of the said Rules deals with **Probation – Suspension – Termination or Extension** and the relevant rule for the present context, i.e., Rule 14 (3) (ii) reads as follows:

> (ii) **Termination of Probation:-** If the appointing authority decided that the probationer has failed to give satisfaction in regard to his / her suitability for full

membership it shall, unless the period of probation is extended under Rule 15, by order, discharge him / her from the service, after giving him / her one month's notice or pay in lieu of such notice.

Provided that if the discharge of a probationer is as a measure of punishment on the ground of misconduct, negligence or any specific fault on the part of the probationer, the procedure prescribed under Rule 19 (2) read with Rule 20 of the Andhra Pradesh Civil Service (Classification, Control and Appeal) Rules, 1991, shall be followed and it shall not be necessary to give him / her one month's notice or pay in lieu of such notice.

Explanation I:- The decision of the appointing authority that the probationer has failed to give satisfaction in regard to his / her suitability for full membership may be based also on his work and conduct till the date of the decision, inclusive of the period subsequent to the prescribed or extended period of probation.

Explanation II:- In case where the discharge of the petitioner is made by reverting him / her to his / her lower officiating or substantive post, the pay in lieu of one month's notice shall be limited to the difference in pay between the officiating post and that of the lower officiating or substantive post to which he is reverted.

11. Further, against the Order of Termination or Probation, Rule 16 contemplates an **appeal**, in the following terms:

(1) A probationer who is discharged under clause (ii) or sub-rule (1) or under sub rule(3) of rule 14 shall be entitled to appeal to the High Court within the period of limitation within which an appeal would lie against an order of dismissal passed against a full member of the division or category, as the case may be, to which the probationer belongs.

(2) **Revision of order of termination of probation:-** The High Court, may, either of its own motion or otherwise, revise any order discharging a probationer under any of the provisions referred to in sub-rule (1) within one year of the date of such order.

12. As noted earlier, the petitioner *inter alia* contended that without following the Rules prescribed in Andhra Pradesh Judicial Ministerial Service Rules, 2019, the impugned proceedings were issued. As seen from the proceedings, it is discernible that A.P.S. & S.S. Rules were also taken into

account along with Rule 14 (3) (ii) of Andhra Pradesh Judicial Ministerial Service Rules, 2019. Further, while referring to different dates and events, the conclusions were recorded not only about performance of the petitioner as not satisfactory but also that he is negligent in discharging his legitimate duties, even though the probation period was not completed.

Para No.4 of the impugned order reads as follows:

> "4. In view of the above observations, conditions of appointment of Sri Pasumarthi Ravi, Office Subordinate, his unsatisfactory performance and negligent attitude, he is not entitled to continue in service and deserved for discharge from probation as provided under Rule 17 (ii) (a) of A.P.State and Subordinate Service Rules, 1996 r/w Rule 14 (3) (ii) of A.P.J.M.S.S.Rules 2019 with immediate effect. He shall be paid one month salary in lieu of notice."

13. The discharge of the petitioner / probationer by making the observations as referred to supra, in the opinion of this court cannot be treated as a discharge simplicitor and calls for an enquiry. Though Rule 17 (ii) (a) of A.P.S. & S.S. Rules was pressed into service, which contemplates recording of reasons, the said Rule is not applicable more particularly as the petitioner is governed by Andhra Pradesh Judicial Ministerial Service Rules, 2019. Further, a plain reading of discharge order / proceedings would give an impression that the petitioner's conduct while discharging the duties coupled with other allegations was the motive for discharge. It is settled law that the Courts have to look into substance of the order and not the Form. Be that as it may. Insofar as the present case is concerned, it is discernible that reference to the conduct of the writ petitioner including that he absconded from duties without applying / sanction of leave and that he is negligent in

discharging duties, was made. Mention that he was making allegations against Officers, was also made and it was opined that he is not entitled for any sympathy. Accordingly, on the premise of unsatisfactory performance and negligent attitude, he was discharged. In such a situation, to the mind of this Court discharge without any enquiry, though not as a measure of punishment, is violative of principles of natural justice, stigmatic. Had the discharge proceedings been issued without reference to any of such acts against the writ petitioner / probationer, perhaps it may not amount to stigmatic or punitive.

14. In **Pavanendra Narayan Verma v. Sanjay Gandhi Pgi of Medical Sciences & Another**[5] at Para No.21, the Hon'ble Supreme Court opined as follows:

> "21. One of the judicially evolved tests to determine whether in substance an order of termination is punitive is to see whether prior to the termination there was (a) a full-scale formal enquiry (b) into allegations involving moral turpitude or misconduct which (c) culminated in a finding of guilt. If all three factors are present the termination has been held to be punitive irrespective of the form of the termination order. Conversely if any one of the three factors is missing, the termination has been upheld."

15. Further, it was opined that in order to amount to a stigma, the order must be in a language which imputes something over and above mere unsuitability for the job. In the facts of the said case, the order of termination mentions that work and conduct of the employee has not been found to be satisfactory and it was held that the impugned order of termination is not exfacie, stigmatic and order of termination was not interfered with.

[5] 2001 INSC 557

16. In **Samsher Singh v. State of Punjab[6],** a Seven-Judge Bench of Hon'ble Supreme Court, *inter alia* held that "*No abstract proposition can be laid down that where the services of a probationer are terminated without saying anything more in the order of termination than that the services are terminated it can never amount to a punishment in the facts and circumstances of the case. If a probationer is discharged on the ground of misconduct, or inefficiency or for similar reason without a proper enquiry and without his getting a reasonable opportunity of showing cause against his discharge it may in a given case amount of removal from service within the meaning of Art.311 (2) of the Constitution."*

17. In **Sarita Choudhary v. High Court of Madhya Pradesh & Another[7] case,** it is *inter alia* held as follows:

> "*12.2……*
> *……..an assessment of remarks pertaining to the discharge of duties during the probationary period even without a finding of misconduct and termination on the basis of such remarks or assessment will be by way of punishment because such remarks or assessment would be stigmatic. According to the dictionary meaning, stigma is indicative of blemish, disgrace indicating a deviation from a norm. Stigma might be inferred from the references quoted in the termination order although the order itself might not contain anything offensive…….*
>
> *12.3 Even though a probationer has no right to hold a post, it would not imply that the mandate of Articles 14 and 16 of the Constitution could be violated inasmuch as there cannot be any arbitrary or discriminatory discharge or an absence of application of mind in the matter of assessment of performance and consideration of relevant materials. Thus, in deciding whether, in a given case, a termination was by way of punishment or not, the courts have to look into the substance of the matter and not the form."*

[6] AIR 1974 SC 2192 = 1974 (2) SCC 831
[7] 2025 INSC 289

18. In the case on hand, the order of discharge of petitioner refers to certain incidents based on which he was discharged. No enquiry was undertaken, despite reference to the alleged conduct to the effect that the petitioner was negligent, absconding from duties, making allegations against Presiding Officer etc; In such a situation, it is not discharge simplicitor, stigmatic and will have an impact on the future employment prospects of the petitioner and violative of principles of natural justice. In **Parshotam Lal Dhingra's case** referred to supra, the Constitution Bench of Hon'ble Supreme Court, opined that *where a person is appointed to a temporary post for a fixed term or say five years his service cannot, in the absence of a contract or a service rule permitting its premature termination be terminated before the expiry of that period unless he has been guilty of some misconduct, negligence, inefficiency or other disqualifications and appropriate proceedings are taken under the Rules read with Article 311 (2). The premature termination of the service of a servant so appointed will prima facie be a dismissal or removal from service by way of punishment and so within the purview of Article 311 (2).*

19. In **Bishan Lal Gupta's case,** referred to supra, the Hon'ble Supreme Court extracted the observations in **Shamsher Singh's case** in para 13 and opined as follows:

> "14. These observations must, we think, be meant to cover those cases where, even though the probationer may have no right to continue in service, yet, the order terminating his services casts a stigma on his name. This means that the individual concerned must suffer a substantial loss of

reputation which may, affect his future prospects. In that case, justice requires a fuller hearing."

19. On a due consideration of overall facts and circumstances, the impugned order, this Court is of the considered opinion, is not sustainable as it is stigmatic and effect future prospects of the petitioner. Accordingly, the same is set aside. Accordingly, the point is answered.

20. However, this order shall not preclude the 2nd respondent from conducting an enquiry and pass appropriate orders, after giving opportunity to the petitioner, in accordance with the Law, as expeditiously as possible, within a period of six (6) months from the date of receipt of a copy of this order.

21. Accordingly, this Writ Petition is allowed to the extent indicated above. No costs. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Date: 18 .11.2026
BLV

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

W.P.No.10277 of 2025

Dt: 2026

BLV