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APHC010189722023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3573]**
(Special Original Jurisdiction)

WEDNESDAY, THE 4th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

WRIT PETITION NO: 9723/2023

Between:

N Babu Rao **...PETITIONER**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. ADAPA RAMYA SAHITHI NAIDU

Counsel for the Respondent(S):

1. GP FOR SERVICES II

WRIT PETITION NO: 11832/2024

Between:

S Sai Babu **...PETITIONER**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. M SRIKANTH

Counsel for the Respondent(S):

1. GP FOR SERVICES III
2. GP FOR SERVICES I

WRIT PETITION NO: 4180/2024

Between:

Undrakonda Subba Rao, and Others **...PETITIONER(S)**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner(S):

1. M SRIKANTH

Counsel for the Respondent(S):

1. GP FOR SERVICES III
2. GP FOR SERVICES I

WRIT PETITION NO: 11748/2024

Between:

B Mahendra Babu **...PETITIONER**

AND

The State Of Ap and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. M SRIKANTH

Counsel for the Respondent(S):

1. GP FOR SERVICES III
2. GP FOR SERVICES I

THE HON'BLE SRI JUSTICE BALAJI MEDAMALLI

WRIT PETITION Nos.9723 of 2023, 11832, 4180 & 11748 of 2024

COMMON ORDER:

These Writ Petitions are filed by the petitioners who were engaged on Contractual/Outsourcing/NMR basis etc., questioning the action of Respondents in not continuing the petitioners in service till they attain the age of 62 years of superannuation on par with regular employees as provided under G.O.Ms.No.15, Finance Department, dated 31.01.2022.

2. The case of the petitioners is that they were initially appointed in the respondent-Department on a Contractual/Outsourcing/NMR basis after following the due selection process, which is entirely under the control of the Government, and are governed by the disciplinary control under the provisions of the A.P. State and Subordinate Service Rules. Though they were engaged on a Contractual/Outsourcing/NMR basis, their engagements were renewed from year to year by providing a break of one day, their services were utilised continuously without any interruption, as the nature of their employment is perennial and permanent. They further contend that they are entitled to regularisation of their services also. While so, respondent authorities issued memos directing that the petitioners shall not be continued in service on the ground that they had attained the age of superannuation, i.e., 58 years.

3. Aggrieved by the same, above writ petitions were filed.

4. Respondents filed their counter-affidavit along with an application to vacate the interim order passed by this Court, contending that petitioners are contractual employees and they are aware of all the terms and conditions of their contract agreement and existing rules for superannuation for contractual employees. It is further contended that G.O.Ms.No.15, dated 31.12.2022, issued by the Government enhancing the age of superannuation from 60 to 62 years, has no application to the petitioners, as they are contractual employees and not Government servants. Therefore, in the absence of any enhancement of the age of superannuation applicable to contractual employees, and as the petitioners have attained the age of 58 years, their services have been ceased.

5. Heard Sri M.Srikanth, learned counsel and Sri K.Narasimha Rao, learned counsel representing Smt.Adapa Ramya Sahithi Naidu appearing on behalf of petitioners, and Sri K.Varun Shyam Kumar, learned Assistant Government Pleader and Ms.Sameera Bokka, learned Assistant Government Pleader appearing on behalf of respondents.

6. Learned counsel for petitioners contended that, in terms of G.O.Ms.No.15, dated 31.12.2022, Section 3 of the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984 (for short,

"the Act"), was amended by substituting the age of superannuation of Government employees from 60 to 62 years. Learned counsel for petitioners further contended that as the said Act is applicable to all the employees, petitioners are also entitled to avail benefit under the said Act to continue in service upto the age of 62 years. It is further contended that the agreement governing their contractual service do not contain any specific or implied condition stipulating that their services shall be ceased after they attain the age of 58 years. Learned counsel further submits that as the age of superannuation for the other categories of employees is enhanced to 62 years, denying the same benefit to the petitioners would amount to discrimination.

7. Learned counsel for the petitioners submits that, as per Rule 9 of the A.P. State and Subordinate Service Rules, a person appointed to a public service or post in connection with the affairs of the State is to be treated as a Government servant. Rule 9 also provides for appointment by agreement or contract. Therefore, merely because a person is appointed under an agreement or contract, it cannot be construed that such person does not fall within the category of a Government servant. Once a person is engaged to render services in connection with the affairs of the State, such person, irrespective of the nature of appointment, whether permanent or contractual, is required to be treated as an employee of the State. In the instant case,

petitioners were appointed on a Contractual/Outsourcing/NMR basis to work under the respondent – Department which is under the control of State Government, and there is no dispute with regard to the nature of their appointments by the respondents.

8. Learned counsel for petitioners placed reliance on the judgment of the Hon'ble Apex Court in ***UPSC v. Dr. Jamuna Kurup***[1]***,*** wherein relevant portion reads as under:

> ***"14.*** *The term "employee" is not defined in the Delhi Municipal Corporation Act, 1957, nor is it defined in the advertisement of UPSC. The ordinary meaning of "employee" is any person employed on salary or wage by an employer. When there is a contract of employment, the person employed is the employee and the person employing is the employer. In the absence of any restrictive definition, the word "employee" would include both permanent or temporary, regular or short term, contractual or ad hoc. Therefore, all persons employed by MCD, whether permanent or contractual will be "employees of MCD".*
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> ***15.*** *The respondents who were appointed on contract basis initially for a period of six months, extended thereafter from time to time for further periods of six months each, were therefore, employees of MCD, and consequently, entitled to the benefit of age relaxation. If the intention of MCD and UPSC was to extend the age relaxation only to permanent employees, the advertisement would have stated that age relaxation would be extended only to permanent or regular employees of MCD or that the age relaxation would be extended to employees of MCD other than contract or temporary employees. The fact that the term "employees of MCD" is in no way restricted, makes it clear that the intention was to include all employees including contractual employees. Therefore, we find no reason to interfere with the judgment of the High Court extending the benefit of age relaxation.*"

[1] (2008) 11 SCC 10

9. Placing reliance on the above, learned counsel for petitioners submitted that, the ordinary meaning of ‘employee’ is any person employed on salary or wage by an employer. When there is a contract employment, the person employed is the employee and the person employing is the employer. In absence of any restrictive definition, the word ‘employee’ would include both permanent or temporary, regular or short term, contractual or ad hoc. Learned counsel submits that, in view of the above said ratio laid down by the Hon’ble Apex Court, petitioners are also entitled to be treated as employees, though they may not be regular employees. Learned counsel further submits that merely because the petitioners are non-regular employees, they cannot be discriminated while extending the benefit of the enhanced age of superannuation upto 62 years.

10. Learned counsel for petitioners had drawn the attention of this Court to the judgment of a coordinate bench of this Court in W.P.No.12413 of 2025 and Batch, wherein learned Judge considered the objects and reasons underlying the amendment to the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984 such as principal Act has been amended in the year 2014 enhancing the age of superannuation from 58 to 60 years to the State Government Employees. There has been significant improvement in the average life expectancy compared to that in 2014. As per World Health Organization, the global average life expectancy

in 2019 was around 73 years and the average Indian lived up to 70 years and there has been improvement in health conditions, therefore, it was considered that in order to utilise the experience and expertise of the senior employees and considering the increased life expectancy and improved health conditions in general, proposed to enhance the current age of superannuation of 60 years to 62 years to all the Government employees covered under the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984.

11. Learned Judge had also considered as to whether the enhanced age of Superannuation would apply to the employees of state-owned and controlled entities etc. To resolve these issues, the State Government constituted a high-power committee to examine the issue in detail, including financial implications. Pursuant to the recommendations of the said committee, Government issued G.O.Ms.No.45, dated 02.07.2026 extending the benefit of enhanced age of superannuation to all the regular employees of the PSUs, Corporations and Societies included under Schedules IX and X of Andhra Pradesh Reorganization Act, 2014.

12. Applying the above said principles, learned Judge considered the cases of employees engaged on NMR, temporary, outsourcing, contractual or part-time basis for substantial period of time holding that initially, the

employment under the above said categories was intended for menial jobs, but subsequently, their services were extended to a responsible post, especially in teaching jobs. Therefore, going by the objects and reasons of the amended act, there is no reason to treat the non-regular employees differently as long as there is necessity and able to discharge the works to the satisfaction of the employer. Upon considering the above said aspects, learned Judge disposed of the said W.P.No.12413 of 2025 and Batch with directions as under:

(i) The State Government shall examine the issue and take a conscious decision about enhancement of age upto 62 years to non-regular employees working for a substantial number of years in State departments and State owned/controlled entities;

(ii) Till such time, the petitioners/non-regular employees in service shall be continued or till they attain the age of 62 years;

(iii) The petitioners who have retired on attaining the age of 60 years may be considered for re-engagement till 62 years in the event no alternative arrangement is made.

Therefore, there is no basis for the respondents to deny the said benefit to the petitioners, as the very purpose of amending the Act is based on increase in life expectancy and improvement in health conditions. In the instant case, as the petitioners have been rendering services in the department for several years, respondents ought to have considered the

case of petitioners for enhancement of age of superannuation up to 62 years.

13. Per contra, learned Assistant Government Pleader submits that G.O.Ms.No.15 and G.O.Ms.No.45 have no application to non-regular employees engaged on NMR, temporary, outsourcing, contractual or part-time basis, as the said benefit is intended only for regular employees, as such, petitioners cannot support their case on them.

14. Learned Assistant Government Pleader placed reliance on a judgment of Division Bench of this Court in W.P.No.21294 of 2023, wherein it was held that a person engaged on contractual basis do not constitute a person who is appointed to public services and posts in connection with the affairs of the state as the use of word ‘appointed’ is not without significance. It implies an appointment made in accordance with law and rules.

15. Learned Assistant Government Pleader also placed reliance on judgment of this Court in W.P.No.22342 of 2023, where the NMRs working in Vijayawada Municipal Corporation filed writ petition seeking enhancement of age of superannuation, wherein the Coordinate Bench of this Court held that NMRs/ daily wage/ full-time/ part time or contingent employees do not cover under the Andhra Pradesh Employment (Regulation of Age of Superannuation) Act.

16. Considered the submissions made on either side and perused the record.

On perusal of the above said judgments relied on by the learned Assistant Government Pleader in W.P.No.21294 of 2023 and W.P.No.22342 of 2023, it is evident that Rule 9 of AP State and Subordinate Service Rules was not fell for consideration in those writ petitions to treat whether the petitioners therein come under the definition of “employee”.

17. In this regard, it is pertinent to refer the ratio laid down by the Hon’ble Apex Court in ***UPSC v. Dr. Jamuna Kurup(Supra),*** wherein it was held that the ordinary meaning of ‘employee’ is any person employed on salary or wage by an employer. When there is a contract employment, the person employed is the employee and the person employing is the employer. In absence of any restrictive definition, the word ‘employee’ would include both permanent or temporary, regular or short term, contractual or ad hoc Therefore, all classes of employees has to be treated as employees.

18. The very purpose of enhancement of age of superannuation is for utilisation of experience and expertise services of senior employees for the State in view of increase in life expectancy and health conditions in general. Learned Judge considering all these aspects and issues in the above said batch of writ petitions i.e., W.P.No.12413 of 2025 and Batch disposed of the

writ petitions with the directions as mentioned above. It was brought to the notice of this court that in some cases, Judgment has already been implemented.

19. Therefore, in view of the foregoing reasons, all the writ petitions are allowed in terms of the directions issued in W.P.No.12413 of 2025 which reads as under:

i. The State Government shall examine the issue and take a conscious decision about enhancement of age upto 62 years to non-regular employees working for a substantial number of years in State departments and State owned/controlled entities;

ii. Till such time, the petitioners/non-regular employees in service shall be continued or till they attain the age of 62 years;

iii. The petitioners who have retired on attaining the age of 60 years may be considered for re-engagement till 62 years in the event no alternative arrangement is made.

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

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JUSTICE BALAJI MEDAMALLI

Date: 04.11.2026

Dvs

Whether the order is:

Speaking	☑	Reasoned	☑
Reportable		Non-reportable	☑

THE HON'BLE SRI JUSTICE BALAJI MEDAMALLI

WRIT PETITION Nos.9723 of 2023, 11832, 4180 & 11748 of 2024

Date: 04.11.2026

Dvs