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APHC010482722021

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3330]
(Special Original Jurisdiction)

MONDAY, THE 26th DAY OF OCTOBER 2026

PRESENT
THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.29028 of 2021

Between:

1. K RAHAMATH BI, D/O.K.SATTAR SAHEB, AGED ABOUT 35 YEARS, H.NO.3/149-164-1-S, VALMIKINAGAR, CHANDRA COLONY, NEAR APSWR SCHOOL AND COLLEGE FOR GIRLS, MADANAPALLI, CHITTOOR DISTRICT, ANDHRA PRADESH-517325.

...PETITIONER

AND

1. STATE OF ANDHRA PRADESH, DEPARTMENT OF HIGHER EDUCATION, REPRESENTED BY ITS SECRETARY, AP SECRETARIAT, AMARAVATI, ANDHRA PRADESH.
2. COMMISSIONER OF COLLEGIATE EDUCATION, ANR TOWERS, PRASADAMPADU, VIJAYAWADA, ANDHRA PRADESH.
3. REGIONAL JOINT DIRECTOR OF COLLEGIATE EDUCATION, ZONE-IV, BESIDE GOVERNMENT DEGREE COLLEGE FOR MEN, YSR KADAPA, ANDHRA PRADESH.
4. ANDHRA PRADESH PUBLIC SERVICE COMMISSION, (APPSC), 2ND FLOOR, NEW GOVERNMENT OFFICERS BUILDING, M.G. ROAD (BANDAR ROAD), VIJAYAWADA, ANDHRA PRADESH-520010, REPRESENTED BY ITS SECRETARY.
5. A KOWSALYA DEVI, W/O. NOT KNOWN TO THE PETITIONER, AGED ABOUT 35 YEARS, LECTURER (URDU), GOVERNMENT DEGREE COLLEGE, BANAGANAPALLE, KURNOOL DISTRICT, ANDHRA PRADESH.

6. ARFAT HUSSIAN SHAH, S/O. JANAT HUSSAIN SHAH, AGED ABOUT 30 YEARS, LECTURER (URDU), GOVERNMENT DEGREE COLLEGE, VAYALPAD, CHITTOOR DISTRICT, ANDHRA PRADESH.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order, direction or Writ more particularly one in the nature of Writ of Mandamus, declaring non-selection and non-appointment of the petitioner as Lecturer (Urdu) in Government Degree Colleges in AP Collegiate Education Service, in the posts advertised through Notification No.26/2018 dated 31-12-2018 by the APPSC despite the petitioner securing 1st rank in the state with 224.63 marks and selecting the respondents 5 and 6 though they are less meritorious and from outside Zone-IV as illegal, arbitrary and unconstitutional and consequently direct the respondents 1 to 4 to forthwith appoint the petitioner as Lecturer (Urdu) in Andhra Pradesh Collegiate Education Service, pursuant to Notification No.26/2018 dated 31-12-2018.

Counsel for the Petitioner:

1. KISHORE KUMAR.A

Counsel for the Respondent(S):

1. G RATNA SUDHAKAR SC For APPSC
2. GP FOR SERVICES II
3. NIMMAGADDA REVATHI

The Court made the following:

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.29028 of 2021

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief/reliefs:

> ".…….pleased to issue an order, direction or Writ more particularly one in the nature of Writ of Mandamus, declaring non-selection and non-appointment of the petitioner as Lecturer (Urdu) in Government Degree Colleges in AP Collegiate Education Service, in the posts advertised through Notification No.26/2018 dated 31.12.2018 by the APPSC despite the petitioner securing 1 rank in the state with 224.63 marks and selecting the respondents 5 and 6 though they are less meritorious and from outside Zone-IV as illegal, arbitrary and unconstitutional and consequently direct the respondents 1 to 4 to forthwith appoint the petitioner as Lecturer (Urdu) in Andhra Pradesh Collegiate Education Service, pursuant to Notification No. 26/2018 dated 31-12-2018 and pass such other order or orders….."

2. It is the case of the petitioner that the petitioner is having possessed the degree of M.A. (Urdu), M.Phil. and Ph.D. in 2010, 2011 and 2016 respectively by the Hyderabad Central University. She has passed the State Eligibility Test for Assistant Professor/Lecturership

conducted by Osmania University in 2012 and she is a native of Katnagallu Village, Peddatippasamudram Mandal, Chittoor District, and comes under Zone-IV, for the purposes of employment in Andhra Pradesh. She belongs to BC-E reservation category. And the 4th respondent Andhra Pradesh Public Service Commission (for short, hereafter called as “APPSC”) issued notification No.26/2018, dated 31.12.2018 inviting applications for recruitment to the post of Lecturers in Government Degree Colleges in A.P.Collegiate Education Service. Out of the total number of posts, 161 were carried forward and 147 were fresh vacancies. They were a total of 5 vacancies in Urdu subject in all the Zones put together and all of them were carried forward vacancies. In Zone-IV, there are above 4 vacancies and 5 posts in all the zones put together. The petitioner is supposed to be given appointment, as she secured 224.63 marks stood as first ranker in Urdu subject and the petitioner is supposed to be given appointment by migration in the reserved category converting into open category, when no reserved category candidates were available after 3 consecutive notifications under Rule 22 (g) (h) of the Andhra Pradesh State and Subordinate Service rules as amended in G.O.Ms.No.99 General Administration (Services) Department dated 04.03.2013 (herein after, for short, called

as ‘Rules’) and placed reliance on the judgement of this Court in W.P.No.46830 of 2018 dated 08.11.2019 and the common order in W.P.Nos.13139 of 2020 and 4419 of 2019 dated 04.12.2020.

3. It is submitted that out of the 4 posts in Zone -IV, one post is reserved for SC (General) and one post is reserved for ST (W). They are being carried forward from 2009 and 2011 to 2016 and 2018 respectively, which cannot be done for ever. As per the Government Orders in vogue, the APPSC ought to have been selected the petitioner by converting either of the 2 posts, which are now vacant, as open category posts pursuant to Notification No.26/2018, dated 31.12.2018 by the APPSC

4. The petitioner’s counsel has orally not pressed all the contentions that made in the affidavit against the unofficial respondents Nos.5 and 6, hence the writ petition is dismissed against the respondent Nos.5 and 6.

5. The respondent No.2 filed counter affidavit *inter alia*, asserting that all the averments made in the affidavit filed in support of the writ petition deemed to be denied unless specifically admitted, traversing all the averments made in the affidavit, stating that all details relating to roster were furnished for filling up of 308 vacancies (fresh, unfilled, non-

joining and backlog vacancies) to the 4th respondent vide letter Bc.No.108/Ser.IV/2018-1, dated 19.11.2018 for filling up of the vacant posts of Lecturers in different subjects (20 subjects) including six (06) Urdu backlog and unfilled vacancies of Lecturers in Urdu subject, the 4th respondent (APPSC) has to select the candidates being the recruit agency as per merit with reference to existing rules by conducting written examinations, conducting oral interviews and selecting the meritorious candidates for the posts, respondent No.2 has no role in selection of the candidates and only to give appointments to the selected candidates. Further, the job of 2nd respondent is only to furnish indent with reference to vacancies available in Government Degree Colleges along with roster points to the 4th respondent for notifying the vacancies.

6. The 4th respondent filed counter affidavit, it is stated that notification in note No.4, it is clearly detailed about interchanging procedure that will be followed in case of non-availability of eligible candidates in respect of notified roster points as per Rule 22(h)(ii) of A.P. State and Subordinate Service Rules, 1996, interchanging procedure shall be followed as detailed.

> [*] If qualified candidates belonging to SC or ST are not available, the vacancy reserved to be filled by ac candidate

belonging to ST or SC or Vice-versa viz., SC to ST/ST to SC.

[***] If qualified candidates belonging to a particular Group of BC's (ABCD&E) are not available the vacancy reserved to that group that shall accrue to the next group in respective zones in concerned subjects. Accordingly respondent No-5 was picked up against BC-A vacancy respondent No-6 against VH (W), vacancy in the absence of any VH(W) candidate one VH (G) candidate was short listed based on the merit in the Written Examination. Following the interchange method stipulated in G.O.Ms No.99 the two candidates i.e., respondents No's 5 and 6 got selected on detailed verification of educational qualification. Due to non-availability of VH (W) candidate said vacancy was interchanged as per the conditions laid down in the G.O. Ms. No. 23 Department for Women Children Disabled and Senior Citizen Dept. Dt:26.05.2011 and G.O. Ms. No: 99 General Administration (Services) Department dated 04.03.2013 and the 4th respondent has selected respondent No-6 who is visually handicapped (VH) with 40% disability and possessed required qualification the contention that the 6th respondent is not eligible to the said post as he belongs to State of Jammu and Kashmir is misnomer. In this regard it is stated that said post is state wide post and no local reservation applicable as per para No-11.5 of Notification No: 26 of 2018 hence the contentions denied.

7. Learned counsel for the 4th respondent APPSC Sri G.R.Sudharkar, fairly admitted that the posts are not Zonal posts, it is state-wide posts and the same cannot be carry forwarded for more than three times and the contention of the petitioner is agreeable.

8. Heard learned counsel for the petitioner Sri Kishore Kumar. A, and learned counsel Sri G.R. Sudhakar, for the 4th respondent APPSC and learned A.G.P. For respondent Nos.1 to 3 and Sri Pala Karthi Kiran, for respondent 5 and 6.

POINT FOR CONSIDERATION:

9. Having given up the claim against respondent Nos.5 and 6, the primary contention of the petitioner is that the petitioner secured 224.63 marks, stood as first ranker in Urdu subject, the petitioner is supposed to be given appointment by migration in the reserved category, converting into open category, when no reserved category candidates were available after 3 consecutive notifications under Rule 22 (g) (h) of Subordinate Service Rules, 1996, as amended in G.O.Ms.No.99 General Administration (Services) Department dated 04.03.2013 and placed reliance of judgement of this Court in W.P.No.46830 of 2018

dated 08.11.2019 and the common order in W.P.Nos.13139 of 2020 and 4419 of 2019 dated 04.12.2020.

10. The issue is no more *res integra*, a Division Bench of this High Court, after considering the Rule 22 (g) (h) of the Andhra Pradesh State and Subordinate Service Rules, 1996, and G.O. Ms.No.23, Department for Women Children Disabled and Senior Citizen Dept. dated 26.05.2011, held that when no suitable reserved candidates are not available for three times the same cannot be reserved for the next time and directed the state to filled vacancy.

11. It is gainful to extract the Rule 22 (g) (h) of the Andhra Pradesh State and Subordinate Service Rules, 1996, which reads as under:

> "(g) If in any recruitment, qualified candidates belonging to the Scheduled Castes, Scheduled Tribes, *[Backward Classes (Group-A), (Group-B), (Group-C), (Group-D) and as the case may be (Group-E)] and women are not available for appointment to any or all the vacancies reserved for them, a limited recruitment confined to candidates belonging to them shall be made immediately after the general recruitment to select and appoint qualified candidates from among the persons belonging to these communities to fill such reserved vacancies.
>
> (h) (i) If in any recruitment, qualified candidates belonging to the Scheduled Castes, Scheduled Tribes or, *[Backward

Classes (Group-A), (Group-B), (Group-C), (Group-D) and as the case may be (Group-E)] or women are not available for appointment to all or any of the vacancies reserved for them even after conducting a limited recruitment as specified in sub-rule (g), such vacancies or vacancy may be allotted to the Open Competition after obtaining the permission of the Government and may, thereafter, be filled by a candidate or candidates selected on the basis of open competition.

(ii) Where any vacancies reserved for the Scheduled Castes or Scheduled Tribes or *[Backward Classes (Group-A), (Group-B), (Group-C), (Group-D) and as the case may be (Group-E)] or women are so filled by candidates belonging to other communities, an equal number of vacancies shall be reserved in the succeeding recruitment for the Scheduled Castes or STs or Backward Classes or women, in addition to the vacancies that may be available for that recruitment for them and if in the said succeeding recruitment year also, qualified candidates belonging to the Scheduled Castes or Scheduled Tribes or *[Backward Classes (Group-A), (Group-B), (Group-C), (Group-D) and as the case may be (Group-E)] or women are not available for appointment to all or any of the additional vacancies which are so reserved in that succeeding recruitment year, an equal number of vacancies shall again be reserved in the next succeeding recruitment year for the Scheduled Castes or Scheduled Tribes or *[Backward Classes (Group-A),

(Group-B), (Group-C), (Group-D) and as the case may be (Group-E)] or women in addition to the number of vacancies that may be available for the next succeeding recruitment for the Scheduled Castes or Scheduled Tribes or *[Backward Classes (Group-A), (Group-B), (Group-C), (Group-D) and as the case may be (Group-E)] or women:

Provided that if in the said second succeeding recruitment also no qualified candidates belonging to the Scheduled Castes or Scheduled Tribes or *[Backward Classes (Group-A), (Group-B), (Group-C), (Group-D) and as the case may be (Group-E)] or women are available for appointment to all or any of the additional vacancies which are so reserved in that succeeding recruitment year, an equal number of vacancies shall again be reserved in the next succeeding recruitment year for the Scheduled Castes or Scheduled Tribes or *[Backward Classes (Group-A), (Group-B), (Group-C), (Group-D) and as the case may be (Group-E)] or women in addition to the number of vacancies that may be available for the next succeeding recruitment for the Scheduled Castes or Scheduled Tribes or Backward Classes or women;

Provided further that in the third succeeding recruitment if qualified candidates belonging to Schedule Tribes or as the case may be Schedule Castes are not available, a vacancy reserved to be filled by a candidate belonging to Scheduled

Tribes may be filled by a candidate belonging to Scheduled Castes and a vacancy reserved to be filled by a candidate belonging to Scheduled Castes may be filled by a candidate belonging to Scheduled Tribes and if a qualified candidate belonging to a particular group of *[Backward Classes (Group-A), (Group-B), (Group-C), (Group-D) and as the case may be (Group-E)] is not available for appointment, the vacancy reserved to that group shall accrue to the next group;

(iii) if any additional vacancy or vacancies reserved in favour of candidates belonging to the Scheduled Castes or Scheduled Tribes or *[Backward Classes (Group-A), (Group-B), (Group-C), (Group-D) and as the case may be (Group-E)] or women in any recruitment in accordance with the provisions in clause (ii) appointments thereto shall be made before the appointments in the order of rotation for the relevant recruitment are made."

12. A Division Bench of this Court in W.P.No.46830 of 2018 dated 08.11.2019 and common order in W.P.Nos.13139 of 2020 and 4419 of 2019 dated 04.12.2020, following the above said Rule 22(g) (h) of the Rules, has held which reads as under:

"The G.O.Ms.No.99 General Administration (Services) Department dated 04.03.2013 and corresponding amendment to Rule 22 of the Service Rules are squarely applicable to the

> recruitment Notifications of the years 2009, 2011 and 2016 with reference to the facts of the case on hand. Initially in the recruitment year 2009, the number of vacancies were notified under physically handicapped quota, since there were no suitable and qualified candidates available, they were carried forward to the succeeding recruitment Notification of the year 2011. Out of them, for some of the vacancies, as there were no suitable or qualified candidates available, they were further carried forward to the further succeeding recruitment Notification of the year 2016 under which event on interchange of the reserved categories under physically handicapped quota as suitable and qualified candidates are not available, those vacancies ought to have been converted into open category vacancies by appointing the persons on merit other than persons with disabilities, specifically considering the case of the petitioner, if he is otherwise entitled to."

13. It is trite law that the order of the Division Bench is binding on the learned Single Judge and that of the Full Bench or a Larger Bench on the Division Bench and the Single Judge. A Division Bench of this Court ruled that the respondents should have converted the vacancies into open-category post for merit candidates under the principle of interchangeability, if otherwise eligible.

14. Therefore, the Writ Petition is disposed in the following terms:

a) The respondent Nos.1 to 4 are hereby directed to convert the reserved category post to unreserved category and to consider the case of the petitioner for appointment as Urudu Lecturer, if the petitioner is otherwise eligible.

b) The appointment of the petitioner shall be deemed to have been appointed on the earliest of the date where the other candidates were appointed in pursuant to Notification No.26 of 2018 dated 31.12.2018.

c) The probation of the petitioner shall be considered on par with other candidate appointed in pursuant to Notification No.26 of 2018.

d) The seniority of the petitioner shall be reckoned from such deemed date of appointment and not from the actual date of appointment.

15. As a sequel thereto, Interlocutory Applications pending, if any, shall stand closed. There shall be no order as to costs.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 26.10.2026

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THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.29028 of 2021

Date: 26.10.2026

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