



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

[3460]

MONDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 411/2026

Between:

1. T SARASWATHI, W/O. T.NAGESWARA RAO, AGED ABOUT 60 YEARS, OCC. WORKING AS MULTIPURPOSE WORKER (KITCHEN HELPER) AT MAHATMA JYOTIBA PHULE B.C. WELFARE SCHOOL AND JUNIOR COLLEGE(GIRLS). NELLIMARLA, VIZIANAGARAM DISTRICT, A.P.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS SPECIAL CHIEF SECRETARY DEPARTMENT OF FINANCE HR-IV FR AND LR, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.
2. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, B.C. WELFARE DEPARTMENT, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT.
3. THE MAHATMA JYOTIBA PHULE ANDHRA PRADESH, BACKWARD CLASS WELFARE RESIDENTIAL INSTITUTION SOCIETY (MJPAPBCREIS), PLOT NO.9,

4TH LAND, UMASHANKAR NAGAR CHALASANI NAGAR,
KANURU BANDI, VIJAYAWADA, ANDHRA PRADESH -
520 007. REP. BY ITS SECRETARY.

4. THE MAHATMA MAHATMA JYOTHIBA PHULE, B.C.
WELFARE SCHOOL AND JUNIOR COLLEGE(GIRLS),
NELLIMARLA, VIZIANAGARAM DISTRICT. REP. BY ITS
PRINCIPAL

...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 Writ or Direction more particularly one in the nature of Writ of Mandamus to declare the memo issued by the respondent circular Memo No. HR-IV dt.23.09.2022 is as illegal, arbitrary, unconstitutional and violation of Article 14 of Constitution of India as it is contrary to G.O.Ms.No. 15 dt.31.01.2022 and as well as G.O.Rt.No. 68 dt. 10.05.2018 and consequently direct the respondents to continue the petitioner as Multi Purpose (Kitchen Helper) in the 4th respondent school till she attain the age of superannuation of 62 years as per G.O. Ms. No. 15 dated 31-01-2022 with all regular benefits by setting aside the circular memo No. 1813129/ FIN01-HR-212/2022-HR-IV dt.23.09.2022 issued by the 1st respondent and pass

IA NO: 1 OF 2026

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 direct the respondents to continue the petitioner as Multi Purpose (Kitchen Helper) in the 4th respondent school till she attain the age of superannuation of 62 years pursuant to G.O.Ms. No. 15 dated 31-01-2022 by suspending the circular Memo No,1813129/ FINO1-HR-212/2022-HR-IV dated 23.09.2022 issued by the 1st

respondent pending disposal of the Writ petition before this Hon'ble Court and pass s

Counsel for the Petitioner:

1.S LAKSHMINARAYANA REDDY

Counsel for the Respondent(S):

1.GP FOR SERVICES I

2.GP FOR SERVICES II

WRIT PETITION NO: 413/2026

Between:

1.K.RAMAMOHANA RAO,, S/O. VENKATESWARA RAO,
AGED ABOUT 60 YEARS, OCC. WORKING AS
PRINCIPAL GRADE-1 AT MAHATMA JYOTIBA PHULE
B.C. WELFARE SCHOOL AND JUNIOR COLLEGE
(BOYS) AT BETHAMCHERLA, NANDYAL, KURNOOL
DISTRICT, A.P.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS
SPECIAL CHIEF SECRETARY DEPARTMENT OF
FINANCE HR-IV FR AND LR, VELAGAPUDI,
AMARAVATHI, GUNTUR DISTRICT-522237

2.THE STATE OF ANDHRA PRADESH, REP. BY ITS
PRINCIPAL SECRETARY, B.C. WELFARE
DEPARTMENT, VELAGAPUDI, AMARAVATI, GUNTUR
DISTRICT-522237

3.THE MAHATMA JYOTIBA PHULE ANDHRA PRADESH,
BACKWARD CLASS WELFARE RESIDENTIAL
INSTITUTION SOCIETY (MJPAPBCREIS), PLOT NO.9,

4TH LAND, UMASHANKAR NAGAR CHALASANI NAGAR,
KANURU BANDI, VIJAYAWADA, ANDHRA PRADESH -
520 007. REP. BY ITS SECRETARY.

4. THE MAHATMA JYOTIBA PHULE ANDHRA PRADESH,
BACKWARD CLASS WELFARE RESIDENTIAL SCHOOL
AND JUNIOR COLLEGE (BOYS), BETHAMCHERLA,
NANDYAL KURNOOL DISTRICT, A.P-518101

...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 please to issue Writ or Direction particularly one in the nature of Writ of Mandamus to declare the memo issued by the 1st respondent circular Memo No. HR-IV dt.23.09.2022 is as illegal, arbitrary, unconstitutional and violation of Article 14 of Constitution of India as it is contrary to G.O.Ms.No. 15 dt.31.01.2022 and as well as G.O.Rt.No. 68 dt. 10.05.2018 and consequently direct the respondents to continue the petitioner as Principal Grade-1 in the 4th respondent school till he attain the age of superannuation of 62 years as per G.O. Ms. No. 15 dated 31-01-2022 with all regular benefits by setting aside the circular memo No. 1813129/ FIN01-HR-212/2022-HR-IV dt.23.09.2022 issued by the 1st respondent and pass

IA NO: 1 OF 2026

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 direct the respondents to continue the petitioner as Principal Grade-1 in the 4th respondent school till he attain the age of superannuation of 62 years pursuant to G.O.Ms. No. 15 dated 31-01-2022 by suspending the circular Memo No.1813129/ FIN01-HR-212/2022-HR-IV dated 23.09.2022 issued by the 1®* respondent pending disposal of the Writ petition before this Hon'ble Court and pass

Counsel for the Petitioner:

1.S LAKSHMINARAYANA REDDY

Counsel for the Respondent(S):

1.GP FOR SERVICES I

2.GP FOR SERVICES II

WRIT PETITION NO: 415/2026**Between:**

1.B VENKATA RAMANA, , S/O. B.SAVADAIAH, AGED ABOUT 60 YEARS, OCC WORKING AS SUPERINTENDENT, AT MAHATMA JYOTIBA PHULE B.C. WELFARE SCHOOL (BOYS), AT SRISAILAM, KURNOOL DISTRICT, A.P

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS SPECIAL CHIEF SECRETARY DEPARTMENT OF FINANCE HR-IV FR AND LR, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.

2.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, B.C. WELFARE DEPARTMENT, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT.

3.THE MAHATMA JYOTIBA PHULE ANDHRA PRADESH, BACKWARD CLASS WELFARE RESIDENTIAL INSTITUTION SOCIETY (MJPAPBCREIS), PLOT NO.9, 4TH LAND, UMASHANKAR NAGAR CHALASANI NAGAR, KANURU BANDI, VIJAYAWADA, ANDHRA PRADESH - 520 007. REP. BY ITS SECRETARY.

4. THE MAHATMA JYOTIBA PHULE ANDHRA PRADESH, BACKWARD CLASS WELFARE RESIDENTIAL SCHOOL AND SRISAILAM, KURNOOL DISTRICT, A.P., REP. BY ITS PRINCIPAL

...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 please to issue Writ or Direction more particularly one in the nature of Writ of Mandamus to declare the memo issued by the 1st respondent circular Memo No. HR-IV dt.23.09.2022 is as illegal, arbitrary, unconstitutional and violation of Article 14 of Constitution of India as it is contrary to G.O.Ms.No. 15 dt.31.01.2022 and as well as G.O.Rt.No. 68 dt. 10.05.2018 and consequently direct the respondents to continue the petitioner Superintendent in the 4th respondent school till he attain the age of superannuation of 62 years as per G.O. Ms. No. 15 dated 31-01-2022 with all regular benefits by setting aside the circular memo No. 1813129/ FINO1-HR-212/2022-HR-IV dt.23.09.2022 issued by the 1st respondent and pass

IA NO: 1 OF 2026

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 direct the respondents to continue the petitioner as Superintendent in the 4th respondent school till he attain the age of superannuation of 62 years pursuant to G.O.Ms. No. 15 dated 31-01-2022 by suspending the No. 1813129/ FINO1 -HR-212/2022-HR-IV dated circular Memo 23.09.2022 issued by the 1st respondent pending disposal of the Writ petition before this Hon'ble Court and pass

Counsel for the Petitioner:

1. S LAKSHMINARAYANA REDDY

Counsel for the Respondent(S):

- 1.GP FOR SERVICES I
- 2.GP FOR SERVICES II

The Court made the following:

HON'BLE SRI JUSTICE NYAPATHY VIJAY**W.P.Nos.411, 413 and 415 of 2026****COMMON ORDER:**

The common question in all the three writ petitions is that the Petitioners are seeking for continuation of their service till attaining the age of 62 years in terms of the amendment brought into the Andhra Pradesh Public Employee (Regulation of Superannuation) Act, 1984 vide G.O.Ms.No.15, Finance (HR.IV-FR&LR) Department, dated 31.01.2022.

2. The Petitioners are employees of Mahatma Jyothiba Phule Andhra Pradesh Backward Class Welfare Residential Institution Society (for brevity 'MJPAPBCWRIS'). It is stated that the Society is under the control of the State Government and pursuant to the Amendment to the Andhra Pradesh Public Employee (Regulation of Superannuation) Act, 1984, the age of superannuation was also enhanced to the employees of the Respondent-Society vide G.O.Ms.No.60, School Education (TRG) Department, dated 27.07.2017 and by virtue of the said G.O., the Petitioners were continuing till the age of 60 years. It is stated that the service regulations were framed by the State

Government vide G.O.Rt.No.68, Backward Classes Welfare (B) Department, dated 10.05.2018. As the Government had issued G.O.Ms.No.15, Finance (HR.IV-FR&LR) Department, dated 31.01.2022, amending Andhra Pradesh Public Employment (Regulation of Superannuation) Act, 1984 by enhancing the age of superannuation from 60 to 62 years for Government employees, the Petitioners are seeking for continuation of their services till the age of 62 years on par with Government employees in view of Rule 14 thereof. As the Petitioners were sought to be superannuated on attaining the age of 60 years, the present writ petitions were filed.

3. In the counter affidavit filed by Respondent-Society (MJPAPBCWRIS), it is stated that the amendment brought in by the State Government vide G.O.Ms.No.15, dated 31.01.2022 is not applicable to the employees of the Respondent-Society. It was contended that the State Government issued Circular Memo No.1813129/FIN01-HR/212/2022-HR-IV, Finance Department, dated 23.09.2022 stating that the enhancement of age of superannuation is not applicable to employees other than the Government employees. Therefore, the Petitioners cannot take the benefit of the said amendment. It is further contended that

the State Government has general power of superintendence and control over the administration of the Society and in the absence of any specific consent from the State Government; the Petitioners are not entitled for the enhancement of age of superannuation. In the counter affidavit, reliance was also placed on the judgment of the Division Bench of this Court in **G.Rama Mohan Rao and another v. Government of Andhra Pradesh, rep. By its Principal Secretary and Chairman, Agricultural Marketing and Co-operative Department and another**¹, wherein it was held that consent of the State Government was required for enhancing age of superannuation.

4. Learned counsel for the Petitioners would submit that the Division Bench judgment of this Court reported in **G.Rama Mohan Rao**' case (1 supra) has no application to the facts of this case as Rules and Service Regulations were issued in the year 2018 vide G.O.Rt.No.68, BC Welfare (B) Department, dated 10.05.2018 and the superannuation of the Petitioners should be construed only with reference to the said Service Regulations and none else. It is contended that once the Petitioners' age of superannuation was placed on par with Government employees,

¹ 2017 (3) ALT 1

the contention of the Respondents that in spite of the said Rule, the Petitioners are to be retired at the age of 60 years is unsustainable. It is contended that the action of the Respondents is not in consonance with Rule 14 of the service conditions and unsustainable.

5. Learned standing counsel for the Respondent-Society would submit that Rule 14 does not have automatic application and consent of the State Government is required to continue the employees of the Society till the age of 62 years. It is contended that the amendment to the Act of 1984 has no application to the employees of the Society unless the consent is given by the State Government. Standing counsel further relied on Circular Memo No.1813129/FIN01-HR/212/2022-HR-IV, Finance Department, dated 23.09.2022 explaining the scope of the amendment to the Andhra Pradesh Public Employment (Regulation of Superannuation) Act, 1984 and contended that the Petitioners are entitled for the said benefit.

6. Heard learned counsel for the Petitioners, learned standing counsel for the Society and Government Pleader for Services-I.

7. The issue that falls for consideration in these writ petitions is, whether the Petitioners are entitled to be continued till the age of 62 years on par with Government employees?.

8. The Government vide G.OMs.No.6, B.C. Welfare (B2) Department, dated 02.04.2012 had issued orders for transfer of 45 BC Residential Schools from the Administrative control of School Education Department to Backward Classes Welfare Department with effect from the academic year 2012-13. Subsequently, by G.O.Ms.No.7, B.C. Welfare (B2) Department, dated 11.04.2012, the new society was registered under the A.P. Societies Registration Act, 2001 in the name of "Mahatma Jyothiba Phule Andhra Pradesh Backward Classes Welfare Residential Educational Institutions Society" to manage the transfer of 45 BC Residential Schools from the Andhra Pradesh Residential Educational Institutions Society.

9. Initially, vide Government Memo No.476/B2/2011, dated 22.06.2012, the staff of the 45 BC Residential Schools, who were regular employees of A.P. Residential Educational Institutions Society were treated as 'on deputation' till the Rules are finalized by the State Government. Thereafter, Service Regulations were

formulated by the Society and were forwarded to the State Government vide Lr.RC.No.1544/A/2014, dated 17.10.2017 and the State Government after examination of the Rules approved the Service Regulations vide **G.O.Rt.No.68, dated 10.05.2018.** These Rules were framed under Rule 2 (vii) of the Rules and Regulations of the Mahatma Jyothiba Phule Andhra Pradesh Backward Classes Welfare Residential Educational Institutions Society issued vide G.O.Ms.No.7, dated 11.04.2012.

10. These Rules were named as ***Mahatma Jyothiba Phule Andhra Pradesh Backward Classes Welfare Residential Educational Institutions Society Service Regulations, 2018.***

The Service Regulations specify Constitution, Method of Appointment, Conditions of Appointment, Unit of Appointment, Appointing Authority and other aspects relating to service conditions. Rule 14 thereof specifies the application of Government Rules and the same reads as under:

14) Application of Government Rules:

Notwithstanding anything contained in these regulations, the Government shall have a general power of superintendence and control over the administration of the Society. Exercise of such power and control shall extend to

giving general instructions and directions to carry out the policies of the Government, both Financial and Administrative and such instructions and directions are binding on the Society.

*Where any particular regulation is found deficient and insufficient or unless otherwise specified elsewhere in these regulations, to meet the requirements and demands of any situation in the interpretation and Service Rules 1996, The Andhra Pradesh Ministerial Service Rules 1998, the Andhra Pradesh General Subordinate Service Rules, the Andhra Pradesh Last Grade Service Rules 1992 the Andhra Pradesh Civil Services (Conduct) Rules, 1964, the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 and the Andhra Pradesh Fundamental Rules and Andhra Pradesh Revised Pension Rules, 1980 and other Government orders issued from time to time shall be applicable to all the categories of these Regulations. **The age of superannuation of all the above categories shall be on par with the respective Government employees.***

11. The highlighted part of the above extracted rule shows that the age of superannuation of the categories covered under the rules would be on par with that of respective Government employees by generic reference. Without going into the catena of judgements distinguishing the difference between legislation by incorporation or reference, the Judgment of Hon'ble Supreme

Court in **Kerala SRTC v. K.O. Varghese**², explains the difference in easy understandable language

30. The legislation by referable incorporation falls into two categories. That is (i) where a statute by specific reference incorporates the provisions of another statute as at the time of adoption, and (ii) where a statute incorporates by general reference. The law concerning a particular subject has a genus. In the former case the subsequent amendments made in the referred statute cannot automatically be read into the adopting statute. But in the second category, it may be presumed that the legislative intent was to include all the subsequent amendments also made from time to time in the generic law on the subject adopted by the general reference.

12. The highlighted portion of Rule 14 as extracted above can be termed to be legislation by reference and amendments to the age of superannuation to the Government employees would automatically apply to the employees of the Respondent-Society. Therefore, it would not be open to the Respondent-State to contend that the Petitioners are not entitled to continue till attaining the age of 62 years as the legislation is by reference.

13. The Judgment of Hon'ble Supreme Court in **Harwindra Kumar v. Chief Engineer, Karmik and others**³ would also be relevant to the facts of this case. In the year 1975, Uttar Pradesh

² (2003) 12 SCC 293

³ (2005) 13 SCC 300

Water Sewerage Act, 1975 was enacted and Uttar Pradesh Jal Nigam was established and by virtue of the same, the employees of the Local Self-Government Engineering department became employees of the Jal Nigam on same terms and conditions as was in vogue to the employees till amendments were made as per Section 37 thereof. Subsequently, Regulations were framed in the year 1978, whereunder, the Regulation 31 provided for parity *vis-a-vis* Government employees and employees of the Jal Nigam. The Regulation 31 read as under;

Regulation 31

“31. Besides the provision made under these Regulations, the pay and allowances, pension, leave, imposition of penalty and other terms and conditions of service shall be governed by such rules, regulations and orders which are equally applicable to other serving government servants concerned functioning in the State.”

14. After framing of the Regulations, the U.P State Government enhanced the age of superannuation to 60 years by amending U.P. Fundamental Rules. A general instruction was also issued by the U.P. State Government that the benefit shall not be extended to the employees of public sector undertakings. On a clarification sought by the U.P. Jal Nigam Local Self-Government Engineering Department, who became employees of the Jal

Nigam, the U.P. Government clarified that the benefit is not extendable to those employees. In that context, the employees directly approached the Hon'ble Supreme Court questioning the same. The Hon'ble Supreme Court taking note of Regulation 31 held that as long as Regulation 31 is not amended, the benefit of enhanced age cannot be denied. The Paragraphs 9 and 10 read as follows;

9. In the present case, as the Regulations have been framed by the Nigam specifically enumerating in Regulation 31 thereof that the Rules governing the service conditions of government servants shall equally apply to the employees of the Nigam, it was not possible for the Nigam to take an administrative decision acting under Section 15(1) of the Act pursuant to the direction of the State Government in the matter of policy issued under Section 89 of the Act and directing that the enhanced age of superannuation of 60 years applicable to the government servants shall not apply to the employees of the Nigam. In our view, the only option for the Nigam was to make suitable amendment in Regulation 31 with the previous approval of the State Government providing thereunder the age of superannuation of its employees to be 58 years, in case it intended that 60 years which was the enhanced age of superannuation of the State Government employees should not be made applicable to the employees of the Nigam. It was also not possible for the State

Government to give a direction purporting to act under Section 89 of the Act to the effect that the enhanced age of 60 years would not be applicable to the employees of the Nigam treating the same to be a matter of policy nor was it permissible for the Nigam on the basis of such a direction of the State Government in the policy matter of the Nigam to take an administrative decision acting under Section 15(1) of the Act as the same would be inconsistent with Regulation 31 which was framed by the Nigam in the exercise of powers conferred upon it under Section 97(2)(c) of the Act.

10. For the foregoing reasons, we are of the view that so long as Regulation 31 of the Regulations is not amended, 60 years which is the age of superannuation of government servants employed under the State of Uttar Pradesh shall be applicable to the employees of the Nigam. However, it would be open to the Nigam with the previous approval of the State Government to make suitable amendment in Regulation 31 and alter the service conditions of employees of the Nigam, including their age of superannuation. It is needless to say that if it is so done, the same shall be prospective.

15. On similar lines, as long as the Rules governing the conditions of services of the Petitioners gives parity on par with Government employees with reference to age of superannuation,

it is not open to the Respondents to retire the Petitioners and other similarly placed on attaining the age of 60 years.

16. It would be relevant to mention Section 16 of the A.P Housing Board Act, which reads as under:

16. Application of Services Rules and Certain other rules.

Unless otherwise provided in this Act or prescribed thereunder the provisions of the Service Rules for the time being in force in the State relating to salaries, leave, pensions, traveling allowance, retirements and all conditions of service and the rules for the time being in force relating to the conduct of Government servants and enquiries in to the conduct and punishment of Government servants, shall apply to the Officers and servants of the Board appointed under Section 17.

17. This Rule was interpreted by a Division Bench of the erstwhile Common High Court at Hyderabad in W.P.No.26495 and 26926 of 2015 dated 25.8.2015 and held that the above provision springs to life on enhancement of age of superannuation to Government employees and the employees of the Housing Board would be entitled to the enhanced age of superannuation automatically. In review petitions filed in similar

cases i.e W.P.No.25188 of 2018 and batch, the Division Bench of this Court had dismissed the same on 19.11.2024.

18. Though the Division Bench of this Court in **G.Rama Mohan Rao**' case (1 supra) held that the consent of the State Government is required, a distinction has to be noted *vis-a-vis* bye-laws of State-owned Corporations framed by Corporations themselves and where the State has a major stake and service conditions which are statutory in nature as in this case. It would not be correct to say that even in the face of statutory service conditions framed with the approval of the State Government vide G.O.Rt.No.68, dated 10.05.2018, the consent of State Government would be required. The judgment of the Hon'ble Supreme Court referred supra addresses this aspect and as long as Rule 14 as highlighted remains in the present form in the Rule book, the Respondents cannot deny enhanced age of superannuation to the Petitioners.

19. In view of the above, the writ petitions are allowed and the Petitioners are entitled to be continued till the age of 62 years. No order as to costs.

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

NYAPATHY VIJAY, J

Date: 02.02.2026
KLP