

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION No.18986 of 2024

Between:

K.VICTOR PAUL, S/O LATE LUKARAJU, AGED ABOUT 61 YEARS,
OCC: SENIOR ASSISTANT, R/O CHATLAVADA VILLAGE,
MAREDUMILLIMANDAL, ALLURI SITHARAMA RAJU DISTRICT,
ERSTWHILE EAST GODAVARI DISTRICT AND 13 OTHERS

...PETITIONERS

AND

THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, REVENUE DEPARTMENT, SECRETARIAL BUILDINGS,
VELAGAPUDI, GUNTUR DISTRICT AND THREE OTHERS.

...RESPONDENTS.

DATE OF ORDER PRONOUNCED : **21.01.2025**

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

1. Whether Reporters of Local Newspapers
may be allowed to see the order? : Yes/No
2. Whether the copy of order may be
marked to Law Reporters/Journals? : Yes/No
3. Whether His Lordship wish to
see the fair copy of the order? : Yes/No

JUSTICE SUBBA REDDY SATTI

*** HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**
+ WRIT PETITION No.18986 of 2024

% 21.01.2025

WRIT PETITION No.18986 of 2024

Between:

K.VICTOR PAUL, S/O LATE LUKARAJU, AGED ABOUT 61 YEARS,
OCC: SENIOR ASSISTANT, R/O CHATLAVADA VILLAGE,
MAREDUMILLIMANDAL, ALLURI SITHARAMA RAJU DISTRICT,
ERSTWHILE EAST GODAVARI DISTRICT AND 13 OTHERS

...PETITIONERS

AND

THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, REVENUE DEPARTMENT, SECRETARIAL BUILDINGS,
VELAGAPUDI, GUNTUR DISTRICT AND THREE OTHERS.

...RESPONDENTS.

! Counsel for Petitioners : Sri M.K.Raj Kumar

^ Counsel for Respondents : Sri G.Raju, GP for Services-I

< Gist:

> Head Note:

? Cases referred:

- 1) (2003) 11 SCC 519
- 2) (2004) 5 SCC 568 : AIR 2004 SC 1794
- 3) (2010) 9 SCC 496

This Court made the following:

APHC010374772024



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

[3331]

TUESDAY, THE TWENTY FIRST DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 18986/2024

Between:

K Victor Paul and Others

...PETITIONER(S)

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner(S):

1.M K RAJ KUMAR

Counsel for the Respondent(S):

1.GP FOR SERVICES I

The Court made the following:

ORDER

Petitioners, 14 in number filed the above writ petition, impugning the proceedings issued by the 2nd respondent *vide* Ref.Admin.2/e-37541/2024, dated 19.08.2024 (Ex.P1), whereby reverting them as Village Revenue Officers (Grade-I), as illegal, arbitrary and violative of G.O.Ms.No.225 General Administration (SER.C) Department, dated 18.05.1999.

2. The 1st petitioner deposed to the affidavit on behalf of the other petitioners. Brief facts, are that the petitioners were appointed Village Revenue Officers on 08.02.2007 in the respondents' offices 2 to 4. The petitioners and others were promoted to the cadre of Senior Assistants *vide* Ref:A6/21/2022 dated 21.02.2022 subject to certain conditions, i.e., passing departmental tests. After promotion, the petitioners passed some tests conducted by the 2nd respondent. The petitioners could not pass the "Proficiency in automation with the usage of Computer and Associated Software" test. Some of the petitioners could not pass the survey test. All the petitioners crossed 45 years and hence, are exempted from passing tests prescribed in the special Rules, as per G.O.Ms.No.225, dated 18.05.1999. The petitioners made a representation dated 12.07.2024 to the show cause notice issued by the 2nd respondent dated 09.07.2024 explaining the reasons and requesting time by one year to complete the exams. However, the 2nd respondent without considering the same, issued the proceedings impugned. Hence, the writ petition.

3. An additional affidavit was filed by way of I.A.No.2 of 2024. In Paragraph 10 of the additional affidavit, in the tabular form, it was mentioned about tests passed and the tests yet to be passed by them.

4. A counter affidavit was filed on behalf of 2nd respondent. It was contended, *inter alia*, that there was no promotion channel available to Village Revenue Officers (VROs) either to Junior Assistant Cadre or to Senior Assistant Cadre. The VRO post is not a feeder category post to any of the posts in the Revenue Department. The Government has taken a policy decision *vide* G.O.Ms.No.154 Revenue (Services-III) Department dated 05.07.2021 and created a promotion channel from the category of VROs (Grade-I) as Senior Assistants with certain conditions.

Out of 47 VROs (Grade-I) promoted to the cadre of Senior Assistant on a conditional basis, 17 VROs (Grade-I) have not passed all the required departmental tests even after the lapse of two years. The APPSC conducts the "Proficiency in automation with usage of Computer and Associated Software" test regularly. The Survey Training test was also conducted by the Survey Training Academy. The writ petitioners along with others were considered for promotion, since they have degree qualifications, ignoring the seniors, who do not have degree qualifications. G.O.Ms.No.225 dated 18.05.1999 does not apply to the petitioners and eventually, prayed to dismiss the writ petition.

5. Heard Sri V.Maheswara Reddy, learned counsel representing Sri M.K.Raj Kumar, learned counsel for petitioner and Sri G.Raju, learned Government Pleader for Services for respondents.

6. Learned counsel for the petitioner would submit that the order impugned does not contain reasons. Imposing the conditions *qua* passing of departmental while promoting the petitioners, in terms of G.O.Ms.No.154 dated 05.07.2021, is unreasonable and contrary to G.O.Ms.No.225 dated 18.05.1999. The authorities, at the most, can postpone the increment without reverting the petitioners. A channel was created for the first time *vide* G.O.Ms.No.154 dated 05.07.2021 for promoting the Village Revenue Officers (Grade-I) to the cadre of Senior Assistant.

7. Per *contra*, Sri G.Raju, learned Government Pleader for Services for respondents would submit that the petitioners were promoted to the post of Senior Assistant in terms of G.O.Ms.No.154 dated 05.07.2021 with certain conditions. Having availed the benefit, the petitioners cannot plead that the conditions in G.O.Ms.No.154 dated 05.07.2021 are

unreasonable. He also would submit that the petitioners cannot approbate and reprobate. The tests prescribed in G.O.Ms.No.154 dated 05.07.2021 are not new tests prescribed for the first time and they were already prescribed in A.P. Ministerial Service Rules, 1998 and eventually prayed to dismiss the writ petition.

8. Now, the point for consideration is:

Whether the proceedings impugned *vide* Ref.Admin.2/e-37541/2024, dated 19.08.2024 (Ex.P1) is legally sustainable?

9. As narrated *supra*, there is no dispute regarding the petitioners' appointment as Village Revenue Officers and thereafter promotion to the cadre of Senior Assistant from Village Revenue Officers (Grade-I) *vide* Ref:A6/21/2022 dated 21.02.2022. The promotions of the petitioners and others were affected, in pursuance of G.O.Ms.No.154 Revenue (Services-III) Department dated 05.07.2021.

10. The post of Village Revenue Officer, initially, is not a feeder category to the post of Senior Assistant before the issuance of G.O.Ms.No.154 dated 05.07.2021. However, by G.O.Ms.No.186, Revenue (VA) Department, dated 04.03.2010, orders were issued to include the Village Revenue Officers drawing Junior Assistant scale of pay as one of the feeder categories for the post of Senior Assistant in Revenue Department by suitably amending the Andhra Pradesh Ministerial Service Rules, 1998, nevertheless, such an amendment would cease to exist after all the village revenue officers drawing junior assistant pay scale are exhausted. Another G.O.Ms.No.25, General Administration (Ser.B) Department dated 19.01.2011 was issued to the

same effect. Thus, the amendments made, before G.O.Ms.No. 154 dated 5-7-2021, for a limited purpose to promote Village Revenue Officers, drawing junior assistant pay scale, are exhausted.

11. Be that as it may, the Chief Commissioner of Land Administration has submitted proposals *vide* Ref No.Ser.IV(1)/875/2009 dated 11.09.2018 stating that based upon the amendments issued to the Andhra Pradesh Ministerial Service Rules, 1998 promotions have been effected to all the VROs who are drawing Junior Assistant scale of pay to the cadre of Senior Assistant; that there are few VROs who worked as Panchayat Secretaries and drawing Junior Assistant scale without giving promotion to the Senior Assistant cadre as per G.O.Ms.No.514, Revenue (VA) Department dated 13.08.2012; that this channel would be ceased once VROs are promoted to the Senior Assistant cadre in the State; that there is no promotion channel available to the VROs either to Junior Assistant cadre or to Senior Assistant cadre. However, the VRO post is not a feeder category post to the Junior Assistant/Senior Assistant posts in the Revenue Department and thus, requested to take a policy decision.

12. Thereafter, the Government issued orders *vide* G.O.Ms.No.514, Revenue (VA) Department dated 13.08.2012 fixing the ratio of 60:40 between the Junior Assistants/Typists working in the Revenue Department at the District level and Village Revenue Officers drawing the Junior Assistants scale of pay, for promotion to the post of Senior Assistant in Revenue Department at the District level in the cycle of rotation. Thus, for the first time, for the post of Senior Assistant, the Village Revenue Officer, Gr-I was made as one of the feeder categories. Of course, certain conditions were also imposed.

13. Before the above G.O., the Government issued G.O.Ms.No.132 Revenue (Ser.III) Department dated 08.05.2020 providing a promotion channel for VROs (Grade-I) to the post of Senior Assistant by fixing the ratio as 60:40 between the Junior Assistants and VRO (Grade-I) respectively, with a condition that VRO (Grade-I) should work in the office of Tahsildar for a minimum period of two years as Junior Assistant and must pass certain qualification i.e. one should possess degree qualification on par with Junior Assistant; one must complete five years of service; the VRO (Grade-I) should have passed all the Departmental tests prescribed for promotion to the post of Senior Assistant on par with Junior Assistant as per the A.P. Ministerial Service Rules, 1998; He/She must have passed the "Proficiency in automation with the usage of Computer and Associated Software" test conducted by the APPSC.

14. Thereafter, the Government after careful examination of the entire issue in supersession of G.O.Ms.No.132 dated 08.05.2020 issued G.O.Ms.No.154 dated 05.07.2021, with the following terms and conditions:

I. **Qualification**:- The VRO (Grade-I) should possess a Degree qualification on par with Junior Assistant as amended in G.O.Ms.No.135, General Administration (Ser.B) Department dated 12.05.2014 for promotion to the post of Senior Assistant.

II. **Minimum service**: He must have put in not less than five (5) years of regular service in the present post i.e., VRO Gr-I, for promotion to the post of Senior Assistant.

III. **Ratio & Rotation**: A ratio of 60:40 between the Junior Assistants / Typists working in the Revenue Department at the District level and Village Revenue Offers (Grade-I), with the following cycle of rotation:

2nd vacancy; 5th vacancy; 7th vacancy and 10th vacancy is provided to the Village Revenue Officer (Gr-1).

IV. Training & Regularization of Service.

(a) The VRO (Gr-I) on promotion as Senior Assistant should work first (2) years in O/o the Tahsildar/RDO/Collectorate as Senior Assistant to get acquaintance with drafting and noting. During this period they shall not be deputed to field work as Revenue Inspector.

(b) The VRO (Gr-I) on promotion as Senior Assistant shall Pass all the Departmental tests prescribed for promotion to the post of Senior Assistant on par with Junior Assistant viz;

- (i) Revenue Tests – 1,2,3
- (ii) Survey Training for (42) days,
- (iii) Crop Sampling and
- (iv) Accounts Test for Subordinate Officers Part I

(c) The VRO (Gr-I) on promotion as Senior Assistant shall pass the "Proficiency in Automation with usage of Computer and Associated Software' Departmental Test conducted by the Andhra Pradesh Public Service Commission."

The services will be regularized and seniority will be fixed in the category of Senior Assistant only on fulfilling above (3) conditions. If any of the above tests/training are not passed/completed within two (2) years they shall be reverted to the post of VRO without assigning any prior notice."

15. Thus, to get promoted to the post of Senior Assistant, the VRO (Grade-I) should possess a degree and must have completed five years of service. The VRO (Grade-I), after promotion, shall pass departmental tests prescribed for promotion to the cadre of Senior Assistants on par with Junior Assistants as per A.P. Ministerial Service Rules, 1998.

16. The petitioners and others, totalling 47 in number were promoted to the cadre of Senior Assistant on condition to fulfilling Clause No.8 (IV) (a, b & c) of the G.O.Ms.NO.154 dated 05.07.2021. It was set out in the

said G.O. that if any of the tests are not passed/completed within two years, the promotees shall be reverted to the post of VRO without issuing any prior notice. Out of 47 Seniors Assistants from VROs, 17 VROs have not passed the required departmental tests and thus, a show cause notice was issued and after considering the explanation submitted by them, the proceedings impugned were issued.

17. It is pertinent to mention here that the Government issued G.O.Ms.No.225 dated 18.05.1999 exempting, the Government employees, who crossed 45 years of age from passing departmental tests prescribed in the Special Rules/Adhoc Rules for promotion to the next higher category if they could not get one promotion even after their initial appointment. When the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad issued a clarification stating that passing of Revenue Survey Training, which is a technical qualification shall not be exempted as per G.O.Ms.No.225 dated 18.05.1999 for promotion to the post of Senior Assistant from the feeder category, the Government issued G.O.Ms.No.391 Revenue (Ser.III) Department dated 19.10.2015 exempting the employees who have crossed 45 years of age from passing/completion of Survey Training (Technical qualification) for getting first promotion to the post of Senior Assistant from the category of Junior Assistant/Typist etc. It was further clarified that those employees shall remain as Senior Assistant as Ministerial staff till the end of their service in relaxation of Rules and they shall not be eligible for training for the post of Revenue Inspector.

18. The G.O.Ms.No.225 dated 18.05.1999 was issued by the State Government as per the proviso to Article 309 of the Constitution of India making an ad-hoc Rule, wherein exemption granted to the employees

who have crossed 45 years from passing departmental tests starts with a non-obstante clause. The proviso to the ad-hoc Rule, which is relevant is extracted below:

Provided further that the exemption is applicable in case of Departmental Tests or Special Tests only, where they are prescribed as a pre-requisite for promotion and this exemption shall not be applicable where like technical or academic qualifications are prescribed for promotion to the next higher category of posts.

19. In respect of technical qualification i.e. completion of Survey Training, it was clarified in G.O.Ms.No.391 dated 19.10.2015 that completion of Survey Training for getting promotion, the employees who have crossed 45 years of age are exempted. Thus, even before G.O.Ms.No. 154 dated 05-07-2021 came into effect the rule regarding the passing of tests qua employees above 45 years was clarified and it was made clear that the employees above 45 years are exempted. Having exempted the employees who crossed 45 years from the departmental tests, whether reverting the petitioners is permissible?

20. The contention of the learned Government Pleader for Services that the petitioners were promoted in terms of G.O.Ms.No.154 dated 05.07.2021 is not in dispute. However, the said G.O.Ms.No.154 dated 05.07.2021 was issued, as per Article 162 of the Constitution of India, whereas G.O.Ms.No.225 dated 18.05.1999 was issued in exercise of proviso to Article 309 of the Constitution of India. The condition in G.O.Ms.No.154 dated 05.07.2021, the VRO (Grade-I) on promotion, shall pass all the departmental tests prescribed i.e. Revenue Tests – 1, 2, 3; Survey Training for (42) days, Crop Sampling, Accounts Test for Subordinate Offers Part I and "Proficiency in Automation with usage of Computer and Associated Software' Departmental Test conducted by

APPSC, may not apply to the case at hand, since all the petitioners crossed 45 years of age at the time of promotion to the cadre of Senior Assistant. Whether imposing such a condition in G.O.Ms.No.154 dated 05.07.2021 is against the letter and spirit of G.O.Ms.No.225 dated 18.05.1999 will be examined in an appropriate case.

21. The contention of the learned Government Pleader that the petitioners cannot approbate and reprobate may not apply to the facts and circumstances of the case, all the petitioners crossed 45 years by the date of their promotion. It is a settled principle of law that a Government order issued under Article 162 of the Constitution of India will not prevail over a Rule made under proviso to Article 309 of the Constitution of India. When the other feeder categories of employees to the Senior Assistant are exempted from passing departmental tests, crossed 45 years, the petitioners who crossed 45 years are also exempted from passing the departmental tests.

22. The 2nd respondent despite the reply submitted by the petitioners to the show cause notice, failed to consider the effect of G.O.Ms.No.225 dated 18.05.1999 and clarification issued by G.O.Ms.No.391 dated 19.10.2015 to the employees who have crossed 45 years of age *qua* passing of departmental tests.

23. Time and again, the Hon'ble Apex Court reiterated that reason is the heartbeat of every conclusion. The reason introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute subjectivity with objectivity. The absence of reasons, renders the order indefensible/unsustainable, particularly when the order is subject to

further challenge before a higher forum. **Raj Kishore Jha Vs. State of Bihar**¹.

24. Giving reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before Courts, and it is the only indication to know about the manner and quality of exercise undertaken, as well the fact that the Court concerned had applied its mind. **State of Orissa Vs. Dhaniram Luhar**².

25. In **Kranthi Associates Private Limited and another Vs. Masood Ahmed Khan and others**³, the Hon'ble Apex Court summarized *qua* the reasons in an order as follow:

“47. Summarizing the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

¹ (2003) 11 SCC 519

² (2004) 5 SCC 568 : AIR 2004 SC 1794

³ (2010) 9 SCC 496

(f) Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior Courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor* (1987) 100 Harward Law Review 731-737).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See *Ruiz torija v. Spain*, (1994) 19 EHRR 553, at 562 para 29 and *Anya v. University of Oxford*, 2001 EWCA Civ 405,

wherein the Court referred to Article 6 of European Convention of Human Rights which requires,

"adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

26. Given the discussion made *supra*, since the petitioners crossed 45 years by the date of promotion, the conditions in G.O.Ms.No.154 dated 05.07.2021 regarding Training & Regularization of Service, in the opinion of this Court do not apply to the petitioners. This court should not be oblivious to the conditions in G.O.Ms.No.225 General Administration (SER.C) Department, dated 18.05.1999 and G.O.Ms.No.391 dated 19.10.2015. This Court is of the view that there cannot be discrimination in the feeder category employees who crossed 45 years to the post of Senior Assistant. As observed *supra*, all the petitioners, by the date of their promotion, crossed 45 years of age. The petitioners possessed degree qualifications and hence they were considered for promotion by excluding seniors, who did not have degree qualifications. The authority failed to consider all these aspects, including reasons, and passed the order impugned and hence the same is liable to be set aside.

27. Accordingly, the proceedings issued by the 2nd respondent *vide* Ref.Admin.2/e-37541/2024, dated 19.08.2024 (Ex.P1) is set aside. Since some of the VROs promoted to Senior Assistants qualified in departmental tests, and the petitioners failed to qualify for the tests, this order will not preclude the respondent authorities from passing appropriate orders keeping clarifications in G.O.Ms.No.225 dated

18.05.1999 and G.O.Ms.No.391 dated 19.10.2015 and the Rules in vogue.

28. With the above directions, the Writ Petition is Allowed. No order as to costs.

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

JUSTICE SUBBA REDDY SATTI

Note: LR Copy to be marked
B/O
PVD