

IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

WRIT PETITION No. 3784 OF 2023

Between:

- 1.K VIJAYALAKSHMI, W/O MUNESWARARAO, AGED 58 YEARS, OCC CONTRACT SUPERVISOR, ULAVAPADU (PROJECT), SPSR NELLORE DISTRICT.
- 2.V. MARY HELEN,, W/O SRINIVASA RAO, AGED 58 YEARS, OCC CONTRACT SUPERVISOR, KANKIPADU (PROJECT), KRISHNA DISTRICT.
- 3.K. DEVA SENA,, W/O SRIDHAR, AGED 58 YEARS, OCC CONTRACT SUPERVISOR, MADDIPADU (PROJECT), BAPATLA DISTRICT.
- 4.K. BALAMANI,, W/O SUBRAMANYAM, AGED 58 YEARS, OCC CONTRACT SUPERVISOR, KOYYURU (PROJECT), VISAKHAPATNAM DISTRICT.
- 5.V. RAVANAMMA,, D/O KURMAIAH, AGED 58 YEARS, OCC CONTRACT SUPERVISOR, KRUPAM (PROJECT), PARVATHIPURAM (MANYAM) DISTRICT.
- 6.B. SATHYAVATHI,, W/O RAMAKRISHNA,O AGED 58 YEARS, OCC CONTRACT SUPERVISOR, NARSIPATNAM (PROJECT), VISAKHAPATNAM DISTRICT.

...PETITIONER(S)

AND

- 1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PLR SECRETARY WOMEN PRINCIPAL SECRETARY, DEVELOPMENT AND CHILD WELFARE DEPARTMENT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.
- 2.THE DIRECTOR OF WOMEN AND CHILD WELFARE, DEPARTMENT WOMEN DEVELOPMENT AND CHILD WELFARE, GOVERNMENT OF ANDHRA PRADESH, JAMPANI TOWERS, GUNTUR, GUNTUR

DISTRICT.

- 3.THE JOINT DIRECTOR OF WOMEN AND CHILD WELFARE,
DEPARTMENT WOMEN DEVELOPMENT 86 CHILD WELFARE,
GOVERNMENT OF ANDHRA PRADESH, JAMPANI TOWERS,
GUNTUR, GUNTUR DISTRICT.
- 4.THE REGIONAL JOINT DIRECTOR, DEPARTMENT WOMEN
DEVELOPMENT 85 CHILD WELFARE, NELLORE REGION, SPSR
NELLORE DISTRICT.
- 5.THE REGIONAL JOINT DIRECTOR, DEPARTMENT WOMEN
DEVELOPMENT AND CHILD WELFARE, KRISHNA REGION,
KRISHNA DISTRICT.
- 6.THE REGIONAL JOINT DIRECTOR, DEPARTMENT WOMEN
DEVELOPMENT AND CHILD WELFARE, GUNTUR REGION,
GUNTUR DISTRICT.
- 7.THE REGIONAL JOINT DIRECTOR, DEPARTMENT WOMEN
DEVELOPMENT AND CHILD WELFARE, VISAKHAPATNAM REGION,
VISAKHAPATNAM DISTRICT

...RESPONDENT(S):

DATE OF JUDGMENT PRONOUNCED: **05.06.2025**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE G. RAMAKRISHNA PRASAD

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|---|----------|
| 1. Whether Reporters of Local Newspapers
may be allowed to see the judgment? | Yes / No |
| 2. Whether the copies of judgment may be
marked to Law Reporters / Journals? | Yes / No |
| 3. Whether His Lordship wish to
see the fair copy of the Judgment? | Yes / No |

G. RAMAKRISHNA PRASAD, J

*** THE HON'BLE SRI JUSTICE G. RAMAKRISHNA PRASAD**

+ WRIT PETITION No.3784 of 2023

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GUNTUR DISTRICT.
- 7.THE REGIONAL JOINT DIRECTOR, DEPARTMENT WOMEN
DEVELOPMENT AND CHILD WELFARE, VISAKHAPATNAM REGION,
VISAKHAPATNAM DISTRICT

...RESPONDENT(S):

! Counsel for Petitioners : Sri J. Sudheer, learned Counsel for
the Writ Petitioners

^ Counsel for Respondents : Sri K. Amrith Raj, learned Assistant
Government Pleader for Services-II.

< Gist:

> Head Note:

? Cases referred:

- 1. State of Gujarat Vs. R.L. Keshav Lal : (1980) 4 SCC 653,**
- 2. State of Assam Vs. Kanak Chandra Dutta : (1967) 1 SCR 679,**
- 3. Maniben Maganbhai Bhariya Vs. District Development
Officer, Dahod : (2022) 16 SCC 343,**
- 4. State of Punjab Vs. Jagjit Singh : (2017) 1 SCC 148,**

5. Jaggo Vs. Union of India and Ors. : 2024 SCC Online SC 3826

APHC010075712023



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

[3328]

THURSDAY, THE FIFTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

**THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA
PRASAD**

WRIT PETITION NO: 3784/2023

Between:

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WOMEN PRINCIPAL SECRETARY, DEVELOPMENT AND CHILD

WELFARE DEPARTMENT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.

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- 6.THE REGIONAL JOINT DIRECTOR, DEPARTMENT WOMEN DEVELOPMENT AND CHILD WELFARE, GUNTUR REGION, GUNTUR DISTRICT.
- 7.THE REGIONAL JOINT DIRECTOR, DEPARTMENT WOMEN DEVELOPMENT AND CHILD WELFARE, VISAKHAPATNAM REGION, VISAKHAPATNAM DISTRICT

...RESPONDENT(S):

Counsel for the Petitioner(S):

- 1.J SUDHEER

Counsel for the Respondent(S):

- 1.GP FOR SERVICES II

The Court made the following:

ORDER:

Heard Sri J. Sudheer, learned Counsel for the Writ Petitioners appearing online assisted by Sri S. Prahaas, learned Counsel and Sri K. Amrith Raj, learned Assistant Government Pleader for Services-II.

2.1. The prayer sought in the present Writ Petition is as under:

“It is humbly prayed to declare that the contract employees/petitioners would fall under the definition of “Government Employee” and are governed under Act 23 of 1984 as amended from time to time and thereby the petitioners are entitled to continue in service till attaining the age of 62 years on par with regular Government Employees, which is in tune with the language, spirit and object of Act 23 of 1984 and consequently direct the respondents to continue the petitioners till they attain the age of 62 years on par with regular employees under Act 23 of 1984 with all consequential benefits and attendant benefits or in alternate to direct the respondents to continue the petitioners upto the age of 60 years on par with others/Part Time Junior Lecturers working in Government Junior Colleges, who are similarly placed like the petitioners by holding the action of the respondents in not doing so and contemplating to retire the petitioners from service by not extending the further contract, solely on the ground that the petitioners attained 58 years of age as meted out to the colleagues of the petitioners as bad, irrational, illegal, unfair, arbitrary, discriminatory, contrary to the spirit and object of Act 28 of 1984 as amended from time to time, unconstitutional by issuance of Writ of Mandamus or issue any Writ, Order or Direction and pass such other order or orders as the Hon’ble Court may deem fit and proper in the circumstances of the case.”

2.2. When this case was listed for admission, the learned Single Judge of this Court (my Predecessor), *vide* Order dated 12.05.2023, had directed the Respondents to continue the services of the Writ Petitioners without reference to the age of 58 years. This Order is in operation till date.

Submissions of Writ Petitioners:

3. Learned Counsel for the Writ Petitioners submits that the Writ Petitioners were initially appointed as Anganwadi Workers on contract basis in the years 1986, 1989, 1980, 1990, 1989 and 1990 respectively; that they have been appointed on contract basis in the higher post i.e., Contract Supervisors in the years 2003, 2005, 2006, 2007 and 2007 respectively and they are now continuing in the same position as such; that the said Writ Petitioners have rendered their services as Anganwadi Workers and are now rendering services as Contract Supervisors to the satisfaction of one and all and they have continued in service without any break; that despite rendering satisfactory service, since the Writ Petitioners were not being regularized, the Writ Petitioners filed W.P.No.38777 of 2022 seeking regularization of their services and that the said Writ Petition is still pending on the file of this Court; that now, all the Writ Petitioners have put in almost 30 years of service as Anganwadi workers and as Contract Supervisors on contract basis with a fond hope that their services would be regularized and be paid regular salaries; and that till now, the Writ Petitioners have been sustaining on meager salaries.

3.1. It is further submitted by the learned Counsel for the Writ Petitioners that some of the persons, working in similar posts, on contract basis, were retired from the service at the age of 58 years while the regular employees in the same Department and performing similar functions were being continued beyond the age of 58 years; that some of them were made to retire at 60 years and now they (the regular employees) are made to retire at 62 years by virtue of the amendment made to the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) (Amendment) Act, 2022 dated 14.02.2022; that the said Amendment Act, 2022 has enhanced the age of superannuation from 60 years to 62 years for persons who are appointed to public services and posts in connection with the affairs of the State; that the Writ Petitioners apprehend that they will not be getting any extension of their contract beyond 58 years and hence have approached this Court seeking a

declaration that the benefit of the Andhra Pradesh Public Employment (Regulation of age of Superannuation) Act, 1984 as granted on 14.02.2022 by Amendment Act, 2022, enhancing the age from 60 to 62 years, be extended to the Writ Petitioners inasmuch as they have been appointed to public service and posts in connection with the affairs of the State.

4. Learned Counsel for the Writ Petitioners would submit that the Petitioners herein are placing reliance on the provisions of the Andhra Pradesh State and Subordinate Service Rules, 1996 and would contend that since they have been appointed on contract basis, which is governed under Rule 9 of the Rules 1996, they are also entitled to the benefit of extension of the age of superannuation up to 62 years thereby, permitting the Writ Petitioners to continue in service till the completion of 62 years of age. Learned Counsel for the Writ Petitioners would contend that the Act 23 of 1984 (The Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984) defines the Government Employee to include the categories of Officers and Employees referred to in Section 1(2) of the Act 23 of 1984. Section 1(2) would specify that the persons appointed to public services and posts in connection with the affairs of the State and whose salaries and allowances are paid out of the Consolidated Fund of the State and every other Officer or employee whose conditions of service are regulated by the Rules framed under the proviso to Article 309 of the Constitution of India shall be entitled for the benefit of the Amendment Act, 2022. The relevant provisions of the Act 23 of 1984 are usefully extracted hereunder:

“1.Short title, application and commencement - (1) This Act may be called the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984.

(2) It shall apply to—

- (i) persons appointed to public services and posts in connection with the affairs of the State;
- (ii) officers and other employees working in any local authority, whose salaries and allowances are paid out of the Consolidated Fund of the State;

(iii) persons appointed to the Secretariat staff of the Houses of the State Legislature; and

(iv) every other officer or employee whose conditions of service are regulated by rules framed under the proviso to article 309 of the Constitution of India immediately before the commencement of this Act, other than the village officers and law officers; whether appointed before or after the commencement of this Act.

2. Definitions – In this Act, unless the context other-wise requires, --

(1) xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx;

(2) xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx;

(3) “Government employee” includes all categories of officers and employees referred to in sub-section (2) of section 1.”

5. Learned Counsel for the Writ Petitioners has drawn the attention of this Court to the Gazette Publication dated 14.03.2022 as regards the amendment sought to be made by virtue of the Act 1 of 2022 namely the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) (Amendment) Act, 2022. The relevant portion of the Statement of Objects and Reasons are usefully extracted hereunder:

“There has been significant improvement in the average life expectancy compared to that in 2014. As per the World Health Organization, the global average life expectancy in 2019 around 73 years and the average Indian lived up to 70 years. There has been improved health conditions in general also;

It is considered that in order to utilize 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 State Government employees covered under the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984 and to give effect to the decision from 01.01.2022. In order to give effect to the above, it is necessary to promulgate an ordinance.”

6. The relevant portion of the Amendment Act 1 of 2022 published in the Gazette Notification on 14.02.2022 is also usefully extracted hereunder:

“2. In the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984, (hereinafter referred to as the principal Act), in section 3,-

(1) in sub-section(1), for the words “sixty years” the words “sixty two years” shall be substituted.

(2) in sub-section (2), for the words “sixty years”, the words “sixty two years” shall be substituted.

(3) in sub-section (3),-

(a) for the words “sixty years”, the words “sixty two years” shall be substituted.

(b) in Explanation-II, for words “sixty years”, the words “sixty two years” shall be substituted.

(4) in sub-section (4),-

(a) in clause (a), for the words “sixty years”, the words “sixty two years” shall be substituted.

(b) in clause (b), for the words “sixty years”, the words “sixty two years” shall be substituted.”

7. Learned Counsel for the Writ Petitioners has drawn the attention of this Court to Rule - 4 of the Andhra Pradesh State and Subordinate Service Rules, 1996. Rule 4 of the Rules 1996 is usefully extracted hereunder:

“4. **Method of appointment:-** (a) Appointment to any service, class or category shall be by one or more of the methods indicated below as may be specified in the Special Rules applicable to the relevant post : -

1. Direct recruitment,
2. Recruitment/appointment by transfer,
3. Promotion, or
4. **Contract/Agreement/Re-employment.**

(b) Direct Recruitment: - Where the normal method of recruitment to any service, class or category includes direct recruitment, the proportion in which the special rules may require vacancies to be filled by persons recruited direct shall be applicable to all substantive vacancies and direct recruitment shall be made only against the substantive vacancies.

Explanation:- (i) For the purpose of this rule, notwithstanding anything contained in these rules or special or ad hoc rules, substantive vacancies shall mean all vacancies in the permanent cadre and all vacancies in the posts which have been in existence for more than 5 years.

(ii) The posts earmarked for direct recruitment in the Special Rules/Adhoc Rules shall be filled by direct recruits strictly and not by any other method.

[(iii) The percentage earmarked for direct recruitment should not fall short of 33-1/3% in respect of posts in State Service and 30% in respect of posts in Subordinate Service.]”

8. It is submitted that the said Rule 4(a)(4) takes into its fold any Officer or employee whose appointment has been made by contract or agreement to the public services and posts in connection with the affairs of the State and shall also be entitled for the benefit of the extension of the age of superannuation. Learned Counsel for the Writ Petitioners would submit that the salaries that are received by the Writ Petitioners are paid out of the Consolidated Fund of the State inasmuch as the Government of Andhra Pradesh bears 75% while the Union of India bears 25% of the amount paid to the Writ Petitioners as salary who are on contract basis.

9. Learned Counsel for the Writ Petitioners has drawn the attention of this Court to Rule – 4 and Rule - 9 of the Andhra Pradesh State and Subordinate Service Rules, 1996. He would submit that these Rules have been promulgated in exercise of the power conferred by proviso to Article 309 of the Constitution of India. He would submit that Clause-(iv) of Section 1(2) of the Act 23 of 1984 would clearly state that every other Officer or employee whose conditions of service are regulated by Rules framed under the proviso to Article 309 of the Constitution of India shall also be governed by the Act 23 of 1984. He would therefore, submit that since the Andhra Pradesh State and

Subordinate Service Rules have been promulgated in exercise of the powers conferred by proviso to Article 309 of the Constitution of India, such of those other Officers or employees governed by the Andhra Pradesh State and Subordinate Rules, 1996 are also entitled for the benefit of Act 23 of 1984 and the subsequent changes/amendments made to the said enactment. He has drawn the attention of this Court to Rule 9 of the Rules 1996. Rule 9 of the Rules 1996 is usefully extracted hereunder:

“9. Appointment By Agreement Or Contract :-

(a) (i) Notwithstanding anything contained in these rules or special rules it shall be open to the State Government to make appointment to any post in a service, class or category, otherwise than in accordance with these rules or special rules and to provide by agreement or contract with the person(s) so appointed, for any of the matters in respect of which, in the opinion of the State Government, special provisions are required to be made and to the extent to which such provisions are made in the agreement or contract, nothing in these rules or the special rules shall apply to any person so appointed in respect of any matter for which the provision is made in the agreement or contract:

Provided that in every agreement or contract made in exercise of the powers conferred by these rules, it shall further be provided that in respect of any matter in which no provision has been made in the agreement or contract, provisions of these rules or special rules relating to the post shall apply.

(ii) The agreement or contract may *inter alia* include provisions in respect of conditions of service, pay and allowances, discipline, contract period of appointment, notice period for termination of appointment by either party and other relevant matters.

(iii) The Government may, by order, prescribe the form of such agreement or contract.

(b) A person appointed under sub-rule (a) shall not be regarded as a member of the service, in which the post to which he is appointed, is included and shall not be entitled by reason only of such appointment, to any preferential right to any other appointment in that or in any other service.”

9.1. Learned Counsel for the Writ Petitioners would submit that while the Writ Petitioners were appointed on contract basis, such employment is covered by Rule-4(a)(4) of the Rules, 1996. He would also submit that the limitations spelt-out under Rule-9 did not apply to the Writ Petitioners inasmuch as the Government has neither created any special provisions nor have they adhered to any of the conditions which are mechanically mentioned in the contract. Although the contract, under which the Writ Petitioners were appointed, would state that the contract employees may be removed at any time, admittedly, the Writ Petitioners, who are appointed in the years 1986, 1989, 1980, 1990, 1989 and 1990 respectively, were continued till date. This long continuance itself would presuppose that there are clear vacancies but the Government has not been kind enough to create regular vacancies and evolve a method to regularize Writ Petitioners for the reasons best known to them and with a view to unduly exploit their services. The aspect of regularization is not an issue before this Court but he would contend that the limitations indicated in Rule-9 do not apply, in which event, the Rules, 1996 itself would be applicable to the Writ Petitioners.

Submissions of the Respondents:

10. The Counter Affidavit has been filed by the Respondent No.1. It is submitted that the Contract Supervisors are categorically divided into Grade-I and Grade-II while maintaining the State share of 75% and the Central Government share of 25% in the payment of their remuneration. It is stated that there about 24,078 vacancies in different categories of Gazetted and Non-gazetted posts; that a Notification was issued on 02.07.2013 by the Regional Joint Directors for filling up of 1,117 posts of Grade-II Supervisors as per the service rules and notifications; that specific guidelines were issued *vide* Memo dated 02.07.2013 for the purpose of selection of Grade-II Supervisors; that they shall be selected on zonal basis; that the Director of Women & Child Welfare has also protected the Contract Supervisors who

have appeared in the examination in terms of the Notification and the Writ Petitioners herein have not been qualified in the examination.

10.1. It is further submitted by the Respondents that after bifurcation of the State, they were made to continue on the same terms and conditions as before. It is specifically contended by the learned Counsel for the Respondents firstly, that the Act 23 of 1984 is not applicable to the case of the Writ Petitioners; and secondly, that the Rules promulgated by the State Government in exercise of the powers conferred by the proviso to Article 309 of the Constitution, which are called the Andhra Pradesh State and Subordinate Service Rules, 1996 are also not applicable to the Writ Petitioners and therefore, the Petitioners can never get the benefit of extension of age of superannuation in terms of the Amendment Act, 2022.

Issue:-

11. Having considered the submissions of either side, this Court is of the opinion that the precise issue that falls for consideration before this Court is as follows:

Whether the Writ Petitioners are entitled for the benefit of the Amendment Act, 2022 (The Andhra Pradesh Public Employment (Regulation of Age of Superannuation) (Amendment) Act, 2022) and thereby, they are entitled to be continued in service under the contract until they complete the age of 62 years?

Analysis:-

12. The relevant provisions of law, as projected by Sri J. Sudheer, learned Counsel for the Writ Petitioners, have already been extracted hereinabove. This Court has perused the various Clauses of Sub-Section (2) of Section 1 of the Act 23 of 1984. This Court has also perused the definition of a 'Government Employee', as mentioned in Section 2(3) of Act 23 of 1984. This Court has also perused Section 4 of Act 23 of 1984. This Court has already

noted the 'Statement of Objects and Reasons' for making an amendment with regard to extension of age of superannuation *vide* Gazette Notification dated 14.02.2022.

13. The next Amendment made to Act 23 of 1984 Act was in the year 2014 with regard to the age of superannuation. The Government of Andhra Pradesh had brought into effect the Act 4 of 2014 thereby, enhancing the age of superannuation of the persons mentioned in Sub-Section (2) of Section 1 of Act 23 of 1984 from 58 to 60 years. In the same sequence, the Government of Andhra Pradesh has now brought into effect an amendment to the Act 1984 by enhancing the age of superannuation from 60 years to 62 years *vide* Gazette Notification dated 14.02.2022.

14. This Court has also noted the contents of G.O.Ms.No.436, General Administration (Services-D) dated 15.10.1996 (published in Andhra Pradesh Gazette Part I and Extraordinary on 27.01.1997) with regard to the enacting clause. The said G.O.Ms.No.436 is with regard to the Andhra Pradesh State and Subordinate Service Rules, 1996. It is stated in the enacting clause that the said Rules have been promulgated by the Government of Andhra Pradesh in exercise of the powers conferred by *Proviso* to Article 309 of the Constitution of India. Rule 4 deals with various categories of appointments which are governed by Rules 1996. Clause (a) of Rule 4 of the Rules 1996 clearly stated that the appointment to any service, class or category shall be by one or more methods indicated as may be specified in the special Rules applicable to the relevant post.

15. One of the methods of appointments contemplated under Rule 4(a)(4) is Contract/Agreement/Re-employment. Therefore, Rule 4(a)(4) recognizes that the appointments made out of contract or agreement is also one of the methods of appointment recognized by the Rules, 1996. This is further supported by Rule 9 of the Rules, 1996. These rules, as stated earlier, have been promulgated by the Government of Andhra Pradesh in exercise of powers conferred by the proviso to Article 309 of the Constitution of India.

When it comes to the applicability of the statute governing the age of superannuation, Clause – (iv) of Sub-Section (2) of Section 1 of Act 23 of 1984 (extracted *supra*), it is clearly stated therein that every other Officer or Employee whose conditions of service are regulated by rules framed under the proviso to Article 309 of the Constitution of India shall also be governed by the Act relating to this age of superannuation.

15.1. This Court, having noted the submissions of Sri J. Sudheer, learned Counsel for the Writ Petitioners to the effect that the State Government has not framed any special rules as contemplated under Rule-9 and that the stereotype terms of contract were never adhered to by the State, and therefore, the limitations, as spelt-out in Rule-9 of the Rules, 1996 do not apply, this Court, having considered the same, is in agreement with the learned Counsel for the Writ Petitioners. This view is taken by the Court that the limitations spelt-out in Rule-9 of the Rules, 1996 such as the terms of contract have never been adhered to by the Government and therefore, the State and Subordinate Service Rules, 1996 would apply to the Writ Petitioners for the reason that whatever may be the stereotype terms of contract, the admitted facts in this case, would itself indicate that the Government has not adhered to such terms inasmuch as the Petitioners, who were appointed in the years 1986, 1989, 1980, 1990, 1989 and 1990 respectively, were continued in service without any break. They were even promoted from Anganwadi Workers to Anganwadi Helpers and thereafter, as Contract Supervisors. Therefore, this Court would hold that the Government has neither framed any special rules nor has adhered to the terms in the Contractual Agreement and had continued the Writ Petitioners as such for several decades.

16. This apart, Clause – (i) of Sub Section (2) of Section – 1 of Act 23 of 1984 would cover persons appointed to public services and posts in connection with the affairs of the State. Admittedly, the Writ Petitioners were originally appointed as Anganwadi workers. After having worked in that post

for considerable length of time, they have been appointed to the higher post i.e., as Contract Supervisors in the years 2003, 2005, 2006, 2007 and 2007 respectively and have been continuing as such. It is also stated that they have been rendering similar services as that of their counterparts who are in regular employment and the only difference is with regard to the payment of salary and other service conditions inasmuch as the regular employees are being paid regular wages while the Writ Petitioners were paid meager salaries on the contract basis. Therefore, even on this score, it must be held that the Writ Petitioners are persons appointed to public services and posts in connection with the affairs of the State. It is an admitted fact that the Writ Petitioners receive their salary from the Consolidated Fund of the State Government as well as the Central Government. Article 266 of the Constitution of India has defined the Consolidated Fund of the State to include all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled “the Consolidated Fund of the State”. Admittedly, 75% of the salary received by the Writ Petitioners is paid from out of the Consolidated Fund of the State of Andhra Pradesh and 25% of it is borne by the Union of India’s Consolidated Fund (Clause – (ii) of Sub-Section (2) of Section – 1 of the Act 23 of 1984).

17. In view of the above discussion, this Court is of the opinion that the Writ Petitioners herein, as being contract employees, are governed by the Andhra Pradesh State and Subordinate Rules, 1996. This Court has come to this conclusion by taking into account the purport of Rule 4(a) and Rule 9 of the said Rules. Once having held that the Writ Petitioners are governed by the Rules, 1996, this Court is required to further hold that the Writ Petitioners are entitled for the benefit of extension of age of superannuation in terms of the Amendment Act, 2022 as they are covered under Clauses-(i), (ii) and (iv) of Sub Section (2) of Section-1 of the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984.

18. This opinion of this Court is fortified by the ratio laid down by the Hon'ble Apex Court in ***State of Gujarat Vs. R.L. Keshav Lal : (1980) 4 SCC 653***. The Hon'ble Apex Court, while deciding the question whether the Panchayat Service constituted under the Panchayat Act is a civil service of the State or not, had drawn distinction between the 'defence service' and 'defence post' on one hand and 'civil service' and 'civil post' on the other hand. The Hon'ble Apex Court held, by referring to the ratio held by the Constitution Bench in the case of ***State of Assam Vs. Kanak Chandra Dutta : (1967) 1 SCR 679***, that the true test for determination of the question whether a person is holding a 'civil post' or is a member of the 'civil service' is the existence of a relationship of master and servant between the State and the person holding a post under it and that the existence of such relationship is dependent upon the right of the State to select and appoint the holder of the post, its right to suspend and dismiss him, its right to control the manner and method of his doing the work and the payment by it of his wages and remuneration. Para Nos.14 and 15 of the Judgment of the Hon'ble Apex Court in ***State of Gujarat Vs. R.L. Keshav Lal***, are usefully extracted hereunder:

"14. The first question is whether the Panchayat Service constituted under the Panchayats Act is a Civil Service of the State. The expressions "civil service" or "civil post" are not formally defined. Entry 70 of List I of the Seventh Schedule to the Constitution refers to Union Public Services and all-India Services, and, Entry 41 of List II of that Schedule refers to State public services. Part XIV of the Constitution deals with service under the Union and the States. In Article 309 of the Constitution, we find reference to persons appointed to public services and posts in connection with the affairs of the Union or of any State. Article 310 of the Constitution distinguishes the defence service from the civil service when it refers to members of a 'defence service or of a civil service'. But all persons who are members of a defence service or of a civil service of the Union or of an all-India service or persons who hold any post connected with defence or any civil post under the Union are treated as persons serving the Union and every person who is a member of the civil service of a State or holds any civil post under a State is treated as a person serving a State. The factors which govern the determination of the question whether a

person holds a civil post or is a member of civil service were considered by a Constitution Bench of this Court in *State of Assam v. Kanak Chandra Dutta* [AIR 1967 SC 884 : (1967) 1 SCR 679 : (1968) 1 LLJ 288] and Bachawat, J. speaking for the Bench observed thus:

“There is no formal definition of ‘post’ and ‘civil post’. The sense in which they are used in the Services Chapter of Part XIV of the Constitution is indicated by their context and setting. A civil post is distinguished in Article 310 from a post connected with defence; it is a post on the civil as distinguished from the defence side of the administration, an employment in a civil capacity under the Union or a State. See marginal note to Article 311. In Article 311, a member of a civil service of the Union or an all-India service or a civil service of a State is mentioned separately, and a civil post means a post not connected with defence outside the regular civil services. A post is a service or employment. A person holding a post under a State is a person serving or employed under the State. See the marginal notes to Articles 309, 310 and 311. The heading and the subheading of Part XIV and Chapter I emphasise the element of service. There is a relationship of master and servant between the State and a person holding a post under it. The existence of this relationship is indicated by the State's right to select and appoint the holder of the post, its right to suspend and dismiss him, its right to control the manner and method of his doing the work and the payment by it of his wages or remuneration. A relationship of master and servant may be established by the presence of all or some of these indicia in conjunction with other circumstances and it is a question of fact in each case whether there is such a relation between the State and the alleged holder of a post.”

15. According to the above decision, the true test for determination of the question whether a person is holding a civil post or is a member of the civil service is the existence of a relationship of master and servant between the State and the person holding a post under it and that the existence of such relationship is dependent upon the right of the State to select and appoint the holder of the post, its right to suspend and dismiss him, its right to control the manner and method of his doing the work and the payment by it of his wages and remuneration. It is further held that the relationship of master and servant

may be established by the presence of all or some of the factors referred to above in conjunction with other circumstances. Applying these tests, this Court held that a Mauzadar in the Assam Valley who was engaged in the work of collection of land revenue and other government dues and in the performance of certain other special duties was a person holding a civil post under the State. Following the above decision in *Superintendent of Post Offices v. P.K. Rajamma* [(1977) 3 SCC 94 : 1977 SCC (L&S) 374 : (1977) 3 SCR 678] this Court held that persons who were working as extra departmental agents of the Posts and Telegraphs Department were persons holding civil post.”

19. This apart, it becomes necessary to consider the march of the law as it evolved as regards the status of Anganwadi Workers (AWWs) and Anganwadi Helpers (AWHs). The Hon’ble Apex Court has drawn a clear distinction between the status of the above employees (AWWs and AWHs) prior to the enactment of the Right of Children to Free and Compulsory Education Act, 2009 and the National Food Security Act, 2013. In the case of ***Maniben Maganbhai Bhariya Vs. District Development Officer, Dahod : (2022) 16 SCC 343***, the Hon’ble Apex Court has taken judicial note of the march of law from the case of *Ameerbi* up to *Maniben’s* case (***State of Karnataka and Ors. Vs. Ameerbi and Ors. : (2007) 11 SCC 681***). This distinction as brought out by the Hon’ble Apex Court has a bearing on this case as well. The Hon’ble Supreme Court, in ***Maniben’s*** case, had also dealt with the plight of AWWs and AWHs. Para Nos.24 to 27 of the Judgment of the Hon’ble Apex Court in ***Maniben’s*** case are usefully extracted hereunder:

“24. In view of the provisions of the 2013 Act and Section 11 of the RTE Act, Anganwadi centres also perform statutory duties. ***Therefore, even AWWs and AWHs perform statutory duties under the said enactments. The Anganwadi centres have, thus, become an extended arm of the Government in view of the enactment of the 2013 Act and the Rules framed by the Government of Gujarat. The Anganwadi centres have been established to give effect to the obligations of the State defined under Article 47 of the Constitution. It can be safely said that the posts of AWWs and AWHs are statutory posts.***

25. As far as the State of Gujarat is concerned, the appointments of AWWs and AWHs are governed by the said Rules. In view of the 2013 Act, AWWs and AWHs are no longer a part of any temporary scheme of ICDS. It cannot be said that the employment of AWWs and AWHs has temporary status. ***In view of the changes brought about by the 2013 Act and the aforesaid Rules framed by the Government of Gujarat, the law laid down by this Court in Ameerbi [State of Karnataka v. Ameerbi, (2007) 11 SCC 681 : (2008) 1 SCC (L&S) 975] will not detain this Court any further from deciding the issue. For the reasons stated above, the decision in Ameerbi [State of Karnataka v. Ameerbi, (2007) 11 SCC 681 : (2008) 1 SCC (L&S) 975] will not have any bearing on the issue involved in these appeals.***

26. AWWs and AWHs have been assigned all-pervasive duties, which include identification of the beneficiaries, cooking nutritious food, serving healthy food to the beneficiaries, conducting pre-school for the children of the age group of 3 to 6 years, and making frequent home visits for various reasons. Implementation of very important and innovative provisions relating to children, pregnant women as well as lactating mothers under the 2013 Act has been entrusted to them. It is thus impossible to accept the contention that the job assigned to AWWs and AWHs is a part-time job. The Government Resolution dated 25-11-2019, which prescribes duties of AWWs and AWHs, does not lay down that their job is a part-time job. Considering the nature of duties specified thereunder, it is full-time employment.

27. ***In the State of Gujarat, AWWs are being paid monthly remuneration of only Rs 7800 and AWHs are being paid monthly remuneration of only Rs 3950. AWWs working in mini-Anganwadi centres are being paid a sum of Rs 4400 per month. The important tasks of providing food security to children in the age group of 6 months to 6 years, pregnant women as well as lactating mothers have been assigned to them. In addition, there is a duty to render pre-school education. For all this, they are being paid very meagre remuneration and paltry benefits under an insurance scheme of the Central Government. It is high time that the Central Government and State Governments take serious note of the plight of AWWs and AWHs who are expected to render such important services to the society.***

(emphasis supplied)

20. There is no second opinion about the fact that the decision rendered by the Hon'ble Apex Court in **Maniben's** case is a *game-changer* for mitigating the lives of AWWs and AWHs.

21. Learned Counsel for the Respondents has drawn the attention of this Court to a clarification given by the Government *vide* Circular Memo No.1813129/FIN01-HR/212/2022–HR–IV, dated 23.09.2022, which is to the effect that the benefit of enhancement of age of superannuation shall be available only to persons as mentioned in Clauses (i) to (iv) in Sub Section (2) of Section 1 of the Act 23 of 1984.

22. This Court has considered the text of Circular Memo dated 23.09.2022. Having done so, at the outset, this Court opines that it is only an Executive Order, and also that it is not contrary to Clauses (i) to (iv) and is in verbatim the same as in Clauses (i) to (iv) of Sub Section (2) of Section 1 of Act 23 of 1984 and therefore, this Circular Memo would have no bearing to the facts of this case.

23. In the opinion of this Court, there are also other cardinal attendant factors which are required to be mentioned here. When the Government of Andhra Pradesh has amended the Act 23 of 1984 on 14.03.2022 by bringing into effect Act 1 of 2022, thereby, enhancing the age of superannuation from 60 to 62 years for the regular Government Employees, this Court had the occasion to deal with a variety of situations relating to contractual work-force working in Corporations, Cooperative Societies, Agencies, Authorities, Universities, Teachers and Lecturers on contract etc., Therefore, this Court had the occasion to come across nuances of interpretation with regard to the applicability of benefit rendered by the Government with regard to the extension of age of superannuation. During the course of the hearing of several cases, this Court had posed a query to the Government to explain the rationale behind limiting this extension of age of superannuation only to Government Employees who are covered by the Andhra Pradesh State and Subordinate Rules and not to others (contractual work-force) especially,

keeping in mind, the Statement of Objects and Reasons to the Amendment Act, 2022 which clearly indicates that the average life expectancy compared to the time of 2014, has now been increased to about 70 to 73 years. If this is the logic, it cannot be stated that the life expectancy of the Regular Government Employees had increased but the life expectancy of the contract employees has not biologically increased. This Court is of the opinion that such policy decisions that the Government takes cannot be arrived at whimsically or fancifully and that it has to have a reason and sound logic. When the Government lays down Statement of Objects and Reasons for enhancement of age of superannuation that it is due to improvement in the average life expectancy basing on the recommendation of the World Health Organization, would the Government be entitled to limit this benefit for a group or class of people and deprive the same benefit for other groups or classes whimsically or fancifully? and, whether such conduct on the part of the Government can stand the test of Article 14 of the Constitution of India or not? The Hon'ble Apex Court has time and again raised issues of human exploitation even by the State Authorities. Although the subject of minimum time scale is not connected to the present case, the portrayal of the sordid human conditions of employees serving the State under various contractual schemes, has been voiced by the Hon'ble Apex Court, which this Court deems it appropriate to usefully extract hereunder in the case of ***State of Punjab Vs. Jagjit Singh : (2017) 1 SCC 148***:

“57. There is no room for any doubt that the principle of “equal pay for equal work” has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India under Article 141 of the Constitution of India. The parameters of the principle have been summarised by us in para 42 hereinabove. The principle of “equal pay for equal work” has also been extended to temporary employees (differently described as work-charge, daily wage, casual, ad hoc, contractual, and the like). The legal position, relating to temporary employees has

been summarised by us, in para 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us yet again.

58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. ***Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.***

59. We would also like to extract herein Article 7 of the International Covenant on Economic, Social and Cultural Rights, 1966. The same is reproduced below:

“7. The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”

(emphasis supplied)

India is a signatory to the above Covenant having ratified the same on 10-4-1979. There is no escape from the above obligation in view of different provisions of the Constitution referred to above, and in view of the law declared by this Court under Article 141 of the Constitution of India, the principle of “equal pay for equal work” constitutes a clear and unambiguous right and is vested in every employee—whether engaged on regular or temporary basis.”

(emphasis supplied)

24. This Court cannot be oblivious to the recent Judgment of the Hon’ble Supreme Court in **Jaggo Vs. Union of India and Ors. : 2024 SCC Online SC 3826**. The Hon’ble Supreme Court held that the Government has resorted to selective application of **Umadevi’s** case, thereby distorting the spirit of the said Judgment effectively, and weaponising against employees who have rendered the indispensable services over decades. The paragraphs 22 to 27 of the Judgment rendered by the Hon’ble Supreme Court are usefully extracted hereunder:

“22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment

practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

23. The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of workers. The ILO's Multinational Enterprises Declaration⁶ encourages companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security, particularly in contexts where job discontinuation could exacerbate long-term unemployment.

24. The landmark judgment of the United States in the case of *Vizcaino v. Microsoft Corporation*⁷ serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- Misuse of “Temporary” Labels: Employees engaged for work that is essential, recurring,***

and integral to the functioning of an institution are often labeled as “temporary” or “contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.

- *Arbitrary Termination: Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.*

- *Lack of Career Progression: Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.*

- *Using Outsourcing as a Shield: Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.*

- *Denial of Basic Rights and Benefits: Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.”*

26. While the judgment in *Uma Devi* (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between

“illegal” and “irregular” appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. ***However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.***

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.”

(emphasis supplied)

25. Having considered the above analysis, this Court holds that the Writ Petitioners are entitled for the benefit of enhancement of age of superannuation from 58 to 60 years (Act 4 of 2014) and from 60 years to 62 years (Act 1 of 2022). Accordingly, Writ Petition is allowed. The Writ Petitioners are entitled to the benefit of enhancement of age of

superannuation. Therefore, they shall be continued in service as Contract Supervisors until they complete the age of 62 years. No order as to costs.

26. Interlocutory Applications, if any, stand closed in terms of this order.

GANNAMANENI RAMAKRISHNA PRASAD, J

Dt: 05.06.2025

Vns

Note: L.R Copy marked.