

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT APPEAL No.1039 of 2024

Between:

The Commissioner, Endowments Department, A.P., Hyderabad, now at Gollapudi, Vijayawada, NTR District and others.

...Appellants

And

\$ K.Nagababu, S/o Gopalakrishna Murthy, Superintendent, Sri Chandrasekhara Swamy Devasthanam, Ch.Agraharam Village, Ganapavaram Mandal, West Godavari District and others.

...Respondents

Date of Judgment pronounced on : 08-01-2025

**THE HON'BLE SRI JUSTICE B.KRISHNA MOHAN
&**

THE HON'BLE SRI JUSTICE NYAPATHY VIJAY

1. Whether Reporters of Local newspapers may be allowed to see the judgments? : Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals: : Yes/No
3. Whether the Lordship wishes to see the fair copy Of the Judgment? : Yes/No

**_____
JUSTICE B.KRISHNA MOHAN**

**_____
JUSTICE NYAPATHY VIJAY**

***IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

*** THE HON'BLE SRI JUSTICE B.KRISHNA MOHAN**

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...Respondents

! Counsel for the Appellant(s) : GP for Endowments

^ Counsel for Respondent(s) : 1. P.V.S.S.S.Rama Rao

2. M.Surender Rao

3. M.Vidyasagar

<GIST:

>HEAD NOTE:

? Cases referred:

JUSTICE B.KRISHNA MOHAN

JUSTICE NYAPATHY VIJAY

APHC010552932024



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

[3516]



WEDNESDAY ,THE EIGHTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT APPEAL NO: 1039/2024

Writ Appeal under clause 15 of the Letters Patent to allow the Writ Appeal by setting aside the order dated 12-07-2024 in W.P.No.33216 of 2012 and pass

Between:

- 1.THE COMMISSIONER, ENDOWMENTS DEPARTMENT, A.P., HYDERABAD, NOW AT GOLLAPUDI, VIJAYAWADA, NTR DISTRICT
- 2.STATE OF ANDHRA PRADESH, REVENUE (ENDOWMENTS) DEPARTMENT, REP. BY ITS PRINCIPAL SECRETARY, HYDERABAD NOW AT AMARAVATHI, GUNTUR DISTRICT, A.P.,

...APPELLANT(S)

AND

- 1.K NAGABABU, S/O GOPALAKRISHNA MURTHY SUPERINTENDENT SRI CHANDRASEKHARA SWAMY DEVASTANAM CH AGRAHARAM VILLAGE GANAPAVARAM MANDAL WEST GODAVARI DISTRICT.
- 2.SRI N S CHAKRADHARA RAO, EXECUTIVE OFFICER SRI MADDI ANJANEYA SWAMY DEVASTANAM GURAVAYAGUDEM VILLAGE JANGAREDDYGUDEM MANDAL WEST GODAVARI DISTRICT.(NOW AT SRI VENKATESWARA SWAMY VARI DEVASTHANAM, VADAPALLI, DR.BR.AMBEDKAR DISTRICT)

3.SRI B H V S N KISHORE KUMAR, S/O BUTCHI RAJU EXECUTIVE OFFICER SRI KOTA SATTEMMA AMMAVARI TEMPLE NIDADAVOLE POST AND MANDAL WEST GODAVARI DISTRICT, NOW AT SRI TIRUPATAMMA AMMAVARI TEMPLE, PEBUGNCHIPROLU, NTR DISTRICT.

4.SRI P VISWANADHA RAJU, EXECUTIVE OFFICER SRI PARIJATHA VENKATESWARA SWAMY TEMPLE JANGAREDDYGUDEM WEST GODAVARI DISTRICT. (NOW AT SRI P.M.K CHOULTRY RAJAMAHENDRAVARAM)

...RESPONDENT(S):

IA NO: 1 OF 2024

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 condone the delay of (114) days in filing the Writ Appeal against order passed by the Learned Single Judge in W.P.No. 33216 of 2012, dated 12-07-2024 and pass

IA NO: 2 OF 2024

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 suspend the operation of the orders dated 12-07-2024 in W.P.No. 33216 of 2012 passed by the Learned Single Judge, pending disposal of the writ appeal and pass

Counsel for the Appellant(S):

1.GP FOR ENDOWMENTS

Counsel for the Respondent(S):

1.P V S S S RAMA RAO

2. M SURENDER RAO

3. M VIDYASAGAR

The Court made the following JUDGMENT :

(per Hon'ble Justice B.Krishna Mohan)

Heard the learned Government Pleader for the appellants and the learned counsel for the 1st respondent.

2. This Writ Appeal is preferred against the order passed by the learned single Judge in W.P.No.33216 of 2012 dated 12.07.2024 directing the appellants to extend the same benefits as were extended to the respondent Nos.2 to 4 herein by applying the provisions of G.O.Ms.No.262 to the 1st respondent by issuing appropriate proceedings within a period of six weeks from the date of receipt of the representation of the 1st respondent/petitioner therein.

3. The appellants herein are the respondent Nos.1 and 2 in the writ petition, the 1st respondent herein is the writ petitioner and the respondent Nos.2 to 4 herein are the respondent Nos.3 to 5 in the writ petition.

4. It is the case of the 1st respondent that while he was working as Junior Assistant in the establishment of Sri Chandrasekhara Swamy Devasthanam, Ch.Agraharam, West Godavari District, he was promoted as Senior Assistant on 22.10.1994 in the same Devasthanam, then he was transferred

to Sri Dhaneswari Ammavari Devasthanam at Duvva Village where he was promoted as Superintendent.

The grievance of the 1st respondent is that the respondent Nos.2 to 4 were given promotions in pursuance of the G.O.Ms.No.262, dated 20.05.2002, but when it comes to the promotion of the 1st respondent, the G.O.Ms.No.888 dated 08.12.2000 was applied illogically. Consequently, he was denied promotion and the other benefits.

As seen from the seniority list prepared by the appellants as on 14.12.2021, the 1st respondent has been working as Superintendent from 01.02.2009 after being promoted, whereas the respondent Nos.3 to 5 were promoted in the year 2013. As per G.O.Ms.No.262, the 1st respondent would be entitled to the next promotion as Executive Officer Grade-I.

The 2nd respondent herein filed the counter in the writ petition stating that the 1st respondent was suspended from the service and that the Writ Petition Nos.1604 of 2010, 2416 of 2010 and 8097 of 2010 were filed before this Court seeking payment of salaries and cancellation of deputation against the orders of suspension etc. The counsel for the 1st respondent submitted that the proceedings against the 1st respondent were also dropped by the 1st appellant. As the entire service record of the 1st respondent is available with the 1st appellant, it is for the 1st appellant to

extend the service benefits on par with the respondent Nos.2 to 4 by applying the G.O.Ms.No.262, dated 20.05.2002.

5. The learned counsel for the appellants refers to the common order passed by the Division Bench of the erstwhile High Court in Writ Petition No.23044 of 2017 and Writ Appeal No.1888 of 2017 dated 04.01.2018 which reads as under:

8. Therefore, the writ petition is allowed, the impugned order is set aside. Now it appears that the Principal Secretary to Government has changed. If it is so, the present incumbent or another incumbent who is the competent to hold the office of the Principal Secretary and who was not the Commissioner, who passed the order dated 08.08.2011, shall deal with the revision of the writ petitioner and dispose it of in accordance with law within a period of three (3) months, from the date of receipt of a copy of the order. Since the writ petitioner had protective orders from this Court till disposal of the revision petition and also since the writ petitioners enjoyed a protective order as against the revisional authority's order dated 15.05.2017, the petitioner shall have the same protection, until the disposal of the revision.

9. As a consequence, the writ appeal is closed as no further orders are necessary.

Accordingly, pending revision before the Government/2nd appellant, the 1st respondent got protection from reversion from the post of Superintendent.

6. The G.O.Ms.No.888 dated 08.12.2000 issued under Section 35(4) read with Section 153 of the Act (Act No.30 of 1987) deals with the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act,

1987 and Service Rules 2000. These rules would apply to all the office Holders and servants of all the Charitable and Hindu Religious Institutions and Endowments including Mutts and Dharmadayams except the office holders and servants of the Tirumala Tirupati Devasthanams. Rule 35 of the said G.O. deals with the relaxation of the rules by Commissioner as under:

35. Relaxation of Rules by the Commissioner:-

The Commissioner may relax any rule in favour of these rules in favour of any person or any class of persons for being appointed, otherwise than by direct recruitment, to any office or post or of any person who is serving or has served in any of the institution in such manner as may appear to him just and equitable.

Provided that where any such rule is applicable to the case of any person or class of persons, it shall not be relaxed in any manner less favourable to the person or class of persons than that provided by that rule.

7. Relying upon the said provision, the learned Government Pleader for the appellants submits that the 1st appellant has got the discretion to relax any of the said rules to any person for any post other than by direct recruitment, with the proviso as mentioned therein.

Similarly, Rule 39 of the said G.O. deals with the qualifications with annexure-III as under:

39. Qualifications:-

No person shall be eligible for appointment to the posts specified in column (2) of the Annexure-III appended to these rules by the method specified in column (3) thereof, unless he possesses the qualifications specified in the corresponding entry in column (4) thereof.

Annexure-III

Category	Name of the post	Method of recruitment	Qualifications	Maximum Age
(1)	(2)	(3)	(4)	(5)
Category-1	-	-	-	-
Category-2	Superintendent	1.By promotion from Senior Assistant. 2.By loan of services of Superintendent from Endowments Department.	-	-
Category-3	Senior Assistant	1.By promotion from Junior Assistant. 2.By loan of services of Senior Assistant from Endowments Department.	1. Must have passed Accounts Test for Subordinate Officers Part-I. 2. Endowments Department Test Part-I & II.	-
Category-4	-	-	-	-
Category-5	-	-	-	-
Category-6	-	-	-	-
Note:	If persons who have passed the examination in Higher Grade are not available those who have passed the Examination by Lower Grades may be appointed.			

8. Subsequently, the Government of Andhra Pradesh in the erstwhile combined State issued G.O.Ms.No.262, Revenue (Endowments-I), dated 20.05.2002 under Section 153(1) read with section 29 of the Act (Act No.30 of 1987) which is called as the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Subordinate Service (Non-Gazetted) Rules. As per the Rule 3 Class-III Note-I, the appointment to the post of Executive Officer Grade-I in every cycle of 20 vacancies shall be made in the order of rotation as specified below:

iii) by transfer from Superintendents of Andhra Pradesh Ministerial Service of Endowments Department.	4 th vacancy to the Superintendents in Head Office 14 th vacancy to the Superintendents working in the respective Multi Zone (Two)
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Rule 5 of the said Rules deals with the qualifications as under:

Qualifications: No person shall be eligible for appointment to the class and categories as specified in columns (1) and (2) respectively of the Annexure to these rules by the method specified in column (3) unless he possesses the qualifications specified in the corresponding entry in column (4) thereof.

The corresponding Annexure under Rule 5 which is relevant for the post of Class-I Executive Officer Grade-I is as below:

Class (1)	Category (2)	Method of appointment (3)	Qualification (4)
Class-I(1)	Executive Officers Grade-I	i) by direct recruitment through APPSC Group-IIA Services.	Must possess a Bachelor's degree from a University in India established or incorporated by or under a Central Act or a State Act or Provincial Act or any other institution recognized by the University Grants Commission or any other equivalent qualifications
		ii) by promotion and transfer.	1. Must have passed Account Test for Sub-ordinate Officers Part-I 2. Must have passed Endowments Department Test Paper-I and Part-II (Act and Rules).

9. Relying upon the above said rules of qualifications and eligibility, the learned counsel for the appellants submits that the 1st respondent should have passed Accounts Test for Subordinate Officers Part-I and he must have passed Endowments Department Test Paper-I and Part-II (Act and Rules) to be considered for the post of Executive Officer Grade-I by way of promotion and transfer and these rules cannot be relaxed. Whereas the

learned counsel appeared for the 1st respondent relies upon the Rule 35 of G.O.Ms.No.888, dated 08.12.2000 as stated supra. He also refers to the memo of the 1st appellant dated 20.04.2013 issued in respect of the 2nd respondent.

10. Upon consideration of the rival submissions made and the relevant rules as stated above and upon perusal of the order of the learned single Judge dated 12.07.2024, it is very clear that the appellants have not filed their counter and made any submissions in the writ petition and for the first time in this writ appeal they argued about the ineligibility of the 1st respondent herein for promotion to the post of Executive Officer Grade-I contending that the G.O.Ms.No.262 dated 20.05.2002 has no application to the case of the 1st respondent herein. Hence, the learned Single Judge has no opportunity to appreciate the contentions of the appellants herein. The above said rules are not overlapping to each other and they exist independently. Admittedly, the 1st respondent has not questioned the promotions given to the respondent Nos.2 to 4 but claimed on par with them. From the totality of the above said facts and circumstances and the rules, this Court deems it fit as just and necessary to give an opportunity for the appellants to file a detailed counter both on facts and law before the learned single Judge in the above said writ petition, subject to payment of costs of Rs.5000/- to the credit of A.P. High Court Legal Services

Committee within a period of four (4) weeks from the date of receipt of copy of this order and within the said time only the necessary counter shall be filed by the appellants herein in the above said writ petition. Considering the case of the 1st respondent, the appellants and the other respondent Nos.2 to 4 if any, the learned single Judge can decide afresh the above said writ petition strictly on its own merits without reference to the above said order which is assailed in this writ appeal. Thus, by setting aside the above said order of the learned single Judge dated 12.07.2024, the matter is remanded for fresh hearing of W.P.No.33216 of 2012 as indicated above.

11. Accordingly, the Writ Appeal is disposed of. Interim order, if any, deemed to have been vacated. There shall be no order as to costs.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE B KRISHNA MOHAN

JUSTICE NYAPATHY VIJAY

08-01-2025

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