

***HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**

+WRIT PETITION No.10485 of 2020

Between:

Y. Durga Prasad, S/o Koteswara Rao

... Petitioner

And

\$ The State of Andhra Pradesh, rep. by the Spl. Chief Secretary,

Health, Medical and Family Welfare Department,

A.P. Secretariat, Amaravati and 5 others.

.... Respondents

JUDGMENT PRONOUNCED ON **29.10.2024**

THE HON'BLE DR.JUSTICE K. MANMADHA RAO

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? - Yes -
2. Whether the copies of judgment may be marked to Law Reporters/Journals - Yes -
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? - Yes -

DR.JUSTICE K. MANMADHA RAO

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.... Respondents

! Counsel for the Petitioner : Sri T.V.V. Koteswara Rao

! Counsel for Respondents: A.G.P for Services-III

<Gist :

>Head Note:

? Cases referred:



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

[3310]

TUESDAY ,THE TWENTY NINETH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 10485/2020

Between:

Y Durga Prasad and Others

...PETITIONER(S)

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner(S):

1.T V V KOTESWARA RAO

Counsel for the Respondent(S):

1.GP FOR MED HEALTH AND FAMILY WELFARE

The Court made the following:

ORDER:

This writ petition is filed under Article 226 of Constitution of India for the following relief:

“...to issue issue a writ order or direction more particularly one in the nature of Writ of Certiorari call for records in respect of the Memo No 9662 18/G2/20202 dated 02.03.2020 of the Special Chief Secretary/ 1st respondent and quash the same by declaring that the petitioners are entitled the posts of Lab Attendants by downgrading the posts of Lab Technicians Gradell on par with the unofficial respondents otherwise to declare the appointments of the unofficial respondents are biased discriminated and illegal to secure the ends of jus and to pass”

2. Brief facts of the case are that the petitioners are qualified unemployed since 1998. While so, a Notification was issued by the 3rdofficial

respondent for filling up of 25 Lab Technicians Grade - II in various medical institutions in Guntur District, as per G.O.Ms.No.1222 HM&FW (12) Department, dated 21-08-1998. The petitioner has applied for the said Posts along with Sri K. Rama Krishna, Sri N. Venkata Rao & Sri G. Nageswara Reddy/ unofficial respondents 4 to 6, who are also having similar qualifications. As applications were rejected on the reasons that their technical qualifications are not suitable for the posts of Lab Technicians Grade-II, they have approached the Hon'ble AP Administrative Tribunal by way of filing various OAs along with unofficial respondents and the results were also declared as per orders of APAT. Out of 25 posts, 14 candidates were appointed as Lab Technicians Grade-II, who are possessed requisite certificates of Lab Technician. But, the petitioners and the unofficial respondents were not appointed even though there are 11 vacancies are remained in Guntur District on the contention that they were not possessed certificates like Certificates of 14 appointed candidates.

While so, the petitioners came to know that unofficial respondents 4 to 6 were appointed as Lab Attendants downgrading the said Technicians Grade-II vide Govt. Memo No. 515/J2/2007-1, HM&FW Department dated 02-05-2007. However, 8 vacancies are yet to be available in Guntur District in the above same Notification and the petitioners are also entitled one of the posts out of 8 posts. At that juncture, the petitioners have approached APAT and this Hon'ble Court by filing various cases to appoint them as Lab Attendants by downgrading the posts of Lab Technicians Grade-II in the notification on par

with the unofficial respondents and an order was granted by APAT on 09.12.2011 in OA No. 6485 of 2009 in their favour to consider their case on par with the unofficial respondents. But the respondents have not taken any steps in that regard. Hence, the present writ petition.

3. The Counter affidavit has been filed by the respondents. While denying the allegations made in the petition, contended that, even though there are no relevant left over roster points to these 3 individuals and without merit list, they have been appointed as Lab Attendants as per the orders of the Hon'ble APAT, as per orders dated 02.05.2007 of the Government. It is further stated that the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad also issued similar judgment in respect of Sri. M. Srinivasa Rao, Sri. J.V. Koteswara Rao, Sri. G. Samuel Raju and Sri. Y. Durga Prasad who also passed inter vocational course. But their case for appointment as Lab Attendant was rejected by the then District Medical & Health Officer, Guntur and Government stating that the merit list of 1998 recruitment already lapsed and they are not in the merit. The merit list of the recruitment of the Lab Technician Gr-II of 1998 was lapsed at the time of appointment of Sri. Suresh Babu in Prakasam District and Sri. Venkata Rao, Sri. K. Rama Krishna and Sri. G. Nageswara Reddy in Guntur District i.e. during July 2007 (9 years completed). Even though all the cases are similar in nature the cases of Sri. M.Srinivasa Rao (belongs to BC-D), Sri. J.V. Koteswara Rao (belongs to OC), Sri. G. Samuel Raju (belongs to BC- C) and Sri. Y. Durga Prasad (belongs to BC-A) are not considered by the Government for Appointment. Out of 25

vacancies notified only 14 vacancies are filed during 1999 and 3 vacancies filled during 2007 and there are 8 left over vacancies. 01.04.2014, 09.05.2014, 27.05.2014, finally on 09.07.2014 duly serving notices to all the concerned to appear before the Commission. It is a fact that the merit list of the recruitment of Lab Technician Gr-II 1998 stood lapsed at the time of appointment of N.Venkata Rao, N. Rama Krishna and Nageswara Reddy as Lab Attendants in Guntur District during 2007. Moreover there are no relevant left over roster points for their appointments. Sri.Y.Durga Prasad and 3 others have filed different O.A.4142/2014 and 10485/2020 afresh with the same prayer to consider their cases for appointment as lab Attendants on par with K, Rama Krishna and 2 others. The Collector & District Magistrate, Guntur who is chairman of the District Selection Committee has requested this office to examine the four cases and take necessary action immediately and submit compliance report to the A.P. Information Commission. In view of the above, the Director of Public Health and Family Welfare, A.P. Vijayawada has been addressed to re-examine the matter obtain and communicate the orders of the Government regarding the appointment of Sri.Y.Durga Prasad and 3 others as Lab Attendants according to the orders dated: 09.07.2014 of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad in O.A. No.6485/2009 as directed by the AP Information Commission in the cases referred to above at an early date. In turn the Director of Health and Family Welfare, A.P. Vijayawada addressed the Government in the matter to communicate necessary orders. On the other hand the petitioners filed O.A.No.4142/2014

before the Andhra Pradesh Administrative Tribunal. Hyderabad With a prayer to direct the respondents to consider their cases for appointment as Lab Attendants on par with other similarly situated candidates. Again the petitioners approached this Hon'ble court vide W.P.No.15296/2019 with a prayer to direct the respondents to consider the cases for appointment as Lab-Attendants as par with similarly situated candidates. It is stated that this Hon'ble court in its orders dated.30.09.2019 In W.P.No. 15296/2019 has issued directions to consider the representation of the petitioners and pass appropriate orders within a period of six weeks from the date of receipt of the order". Further basing on the Hon'ble High court of Andhra Pradesh orders in W.P.No. 15296/2019 speaking orders were issued vide this office Rc.no.3900/E5/2019 dated.03.01.2020 stating that applicants are not entitled for the appointment of Lab-technician post Gr.II post as they not come up for selection in merit list.Likewise they are not eligible for the appointment notification to the post of Lab-Technician Gr.II. therefore, the writ petition is not maintainable and liable to be dismissed.

4. Heard Sri T.V.V. Kotesara Rao, learned counsel appearing for the petitioners and learned Assistant Government Pleader for Services-III appearing for the respondents.

5. On hearing, learned counsel for the petitioners reiterated the averments made in the petition and prayed to pass appropriate orders.

6. Whereas, learned Assistant Government Pleader also while reiterating the contents made in the counter, submits that, in fact, there is no recruitment notification for the post of Lab-attendant in Guntur district during the year 1998. Thus the petitioners cases will not be under the zone of consideration either for appointment to the post of Lab- Technician Gr.II or Lab-attendant and that the same was informed to the Director of Public health and family welfare, Gollapudi, Vijayawada, AP vide this office letter Rc.No.553/E5/2020 dated 29.02.2020. He further submits that the Government of Andhra Pradesh HM &FW (G2) Department issued speaking orders rejecting their plea in pursuance of the orders of this Hon'ble Court and that the representation of Sri Durga Prasad and another is examined and Government has rejected their plea for appointment to the post of Lab Attendant by downgrading the Lab Technician Gr.II as there was no recruitment notification of the post of Lab Attendant during the year 1998. Therefore, learned Assistant Government Pleader prayed to dismiss the writ petition.

7. Perused the material on record.

8. As seen from the material on record, it is observed that, it is an admitted fact that as per rules, the qualification for the post of Lab Technician Grade-II is a pass in Intermediate and pass in Lab Technician Grade-II training course from a recognized institution. The petitioners have passed Intermediate but are possessing only Medical Lab Technician course offered by the Board of Intermediate Education. Though they are having the qualification to hold the

post of Lab Attendant, they are not having the one year clinical training course from a recognized institution as required for the post of Lab Technician Grade-II. It is further observed that, as per their qualifications, they are eligible only for appointment to the post of Lab Attendants. So, the respondents are contending that the petitioners are not eligible for appointment to the post of Lab Technician Grade-II as they are not having the requisite technical qualification. Previously, the petitioners along with 2 others have filed O.A.No.6485/2009, seeking to dispose of their representation dated 23.3.2009 for appointment of Lab Attendants by downgrading the post of Lab Technician Grade-II and pass appropriate orders. The same was disposed of by the Tribunal directing the respondents to consider the cases of the petitioners for appointment to the post of Lab Attendants by downgrading the post of Lab Technician Grade-II in Guntur District, if vacancies of Lab Technician Grade-II are available and pass appropriate orders.

9. Now, it is the contention of the petitioners that Sri N.Venkata Rao, K.Ramakrishna and Nageswara Reddy, who are also having the qualification to hold the post of Lab Attendant only, participated in the selections conducted by the respondents for the post of Lab Technician Grade-II, and their cases were rejected on the ground that they are not having requisite technical qualification. But thereafter they approached the Tribunal and in pursuance of the orders of the Tribunal, they were appointed as Lab Attendants by downgrading one post of Lab Technician Grade-II, with a direction that they should undergo and pass the certificate of certified Lab Technician Grade-II,

within the period of probation. Even in the counter, the respondents have admitted that the said Venkata Rao was appointed as Lab Attendant by downgrading the post of Lab Technician Grade-II.

10. In view of the foregoing discussion, this Court is of the view that, as the petitioners herein are also stand on the same footing of that Sri N. Venkata Rao,, K. Rama Krishna and Sri Nageswara Reddy, who are the respondents No.4 to 6 herein, inclined to dispose of the writ petition, with a direction to the respondents to consider the cases of the petitioners for appointment to the post of Lab Attendants by downgrading the post of Lab Technician Grade-II in Guntur District, if the vacancies of Lab Technicians Grade-II are available and pass appropriate orders within a period of two (02) months from the date of receipt of a copy of this order.

11. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

12. As a sequel, all the pending miscellaneous applications shall stand closed.

DR. K. MANMADHA RAO, J.

Date : 29 -10-2024

Gvl

HON'BLE DR. JUSTICE K. MANMADHA RAO

WRIT PETITION No:10485/2020

Date : 29.10.2024

Gvl