GAHC040016192025 2026:GAU-AP:1028

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/456/2025

Maku Taku and 2 Ors
Son of Late Bladi Taku, presently serving as Technical Assistant, Office of the Deputy Director, Department of Rural Development, Lemmi, Pakke Kessang District, Arunachal Pradesh.

2: Sai Kotin
Age:
Occupation :
Son of Shri Lidu Kotin
presently serving as Technical Assistant
Office of the Deputy Director
Department of Rural Development
Tato
Shi Yomi District
Arunachal Pradesh.

3: Toli Gamlin
Age:
Occupation :
Son of Shri Sokto Gamiln
presently serving as Technical Assistant
Office of the Deputy Director
Department of Rural Development
Basar
Leparada District
Arunachal Pradesh

VERSUS

The State of AP and 2 Ors
represented by the Chief Secretary, Govt of Arunachal Pradesh.

2:The Secretary
Age: 0

Occupation :
Department of Rural Development
Govt of Arunachal Pradesh
Itanagar.

3:The Director
Age: 0
Occupation :
Department of Rural Development
Govt of Arunachal Pradesh
Itanagar

BEFORE

HON'BLE MR. JUSTICE KALYAN RAI SURANA

For the petitioners : Mr. P.D. Nair. Sr. Adv.
: Mr. Maga Toni.

For the respondent no. 1 : Ms. P. Pangu, Govt. Adv.
For the respondent nos. 2 & 3 : Mr. B. Picha, SC, DRD.

Date on which judgment is reserved : 10.06.2026.

Date of pronouncement of judgment : 01.10.2026.

Whether the pronouncement is of the operative part of the judgment? : No

Whether the full judgment has been Pronounced : Yes

JUDGMENT AND ORDER

(CAV)

Heard Mr. P.D. Nair, learned senior counsel, assisted by Mr. Maga Toni, learned counsel for the petitioners. Also heard Ms. P. Pangu, learned Govt. Advocate for respondent no.1 and Mr. B. Picha, learned standing counsel for the Department of Rural Development, respondent nos. 2 and 3.

2) By filing this writ petition under Article 226 of the Constitution of India, the petitioners have prayed for declaration that the petitioners have accrued a legitimate right to be considered for promotion to the post of APO (RE), having been absorbed in the Rural Development Department pursuant to Gazette notification dated 22.02.2024; for quashing the notification no. DRD-11013/18/2022-DRD-RD-/308 dated 01.05.2025, insofar as it deletes the names of the petitioners from the list of APO (RE) and direct their inclusion in the list of APO (RE).

Case of the petitioners:

3) The case of the petitioners is that under the erstwhile District Rural Development Agency (hereinafter referred to as DRDA for brevity) no regular appointment to the post of Assistant Project Officer (Rural Engineering) [hereinafter referred to as APO (RE) for brevity] was made. However, as per the notification dated 22.02.2024, it was reflected that there were 16 (sixteen) sanctioned posts of APO (RE). The petitioners claim that out of the said posts, the petitioners were also included and accordingly, the petitioners were duly absorbed in the posts of APO (RE) under the Rural Development Department.

4) By virtue of notification no. DRD-11013/18/2022-DRD-RD-/308 dated 01.05.2025, the hereinbefore referred notification dated 22.02.2024 was

amended and thus, not only the sanctioned posts of APO (RE) were withdrawn/ removed, but the petitioners were demoted to the post of Technical Assistant (Integrated Watershed Development Programme) [hereinafter referred to as TE (IWDP)]. The grievance of the petitioners is that such action was taken whimsically, arbitrarily, without any justification and without following due process of law. It is claimed that similarly situated officers, particularly the Extension Officers (Rural Engineering) [hereinafter referred to as EO (RE) for brevity], who were brought on deputation and subsequently absorbed as APO (RE) under the impugned notification dated 01.05.2025, were given favourable treatment.

5) The further case of the petitioners is that the DRDA is a centrally sponsored scheme and in the State of Arunachal Pradesh, it is funded as per the ratio of 90:10 from the financial year 2008-09. The Govt. of Arunachal Pradesh, vide O.M. No. CD-583/99(E) dated 20.05.2003, introduced a revised staffing pattern for the DRDAs in the State, *inter-alia*, providing that DRDA shall not have any regular staff by direct recruitment and the staff would be recruited on deputation basis from State Government Departments, State Government undertakings, banking organisations and Central Government for a minimum period of 3 (three) years, as per the qualification prescribed against each post. Part-IV of the said OM dated 20.05.2003, relates to "Wage Employment Wing" and the petitioners are part of the said wing. Under the said Wage Employment Wing, there are three posts, viz., APO (RE), TA (IWDP) and TA (RE). It is claimed that the educational qualification, pay scale and nature of work of the post of TA (IWDP) and TA (RE) are similar. The said three posts are to be filled up as follows:-

a. The post of APO (RE) is required to be filled up by deputation from

amongst the EO (RE), with a minimum service of 11 years in the grade.

b. The post of TA (IWDP) and TA (RE) are required to be filled up on deputation from amongst the EO (RE) having 5 (five) years of service in the grade.

c. In case of failure to fill up the posts by deputation, the same are permitted to be filled up by direct recruitment.

6) The Govt. of Arunachal Pradesh, vide order no. CD-76/2002(E) dated 29.07.2002, accorded sanction for creation of 26 numbers of temporary posts for the newly created DRDA of Kurung Kumey District and Lower Dibang Valley District, wherein 2 (two) posts of APO (RE) were included. In course of time, under new staffing pattern vide order no. CD-76/2002(E)/103 dated 11.11.2003, further 192 (one hundred ninety two) temporary posts were created under the establishments of 15 DRDAs in the State, which included 15 (fifteen) posts of APO (RE). Thereafter, vide order no. CD-26/2002(E) Pt. dated 08.02.2007, approval was accorded for creation of 1 (one) more post of APO (RE).

7) The petitioners claim that they were initially appointed on contractual/ temporary basis, but their services have since been regularised. It has been stated that the service of petitioner no.1 was regularised vide order dated 11.05.2007, but he does not have a copy of the regularisation order and the service of petitioner no. 2 was regularised by order no. DRDA/ESTT-2/ APPTT/2000-07 dated 11.05.2007 and the service of petitioner no. 3 was regularised vide order no. LRD/ESTT-59 (Per)/08 dated 21.11.2008. Consequently, the petitioners were absorbed as TA (IWDP)from the dates of

their respective appointment.

8) The petitioners claim that though OM dated 20.05.2003 provided that the post of APO (RE) should be filled up on deputation from the cadre of EO (RE), while TA (RE) were granted promotion to the post of APO (RE), but TA (IWDP) were not granted any promotion. Thus, the petitioners submitted a memorandum dated 16.07.2015, requesting for merger of TA (RE) and TA (IWDP) and to provide equal promotional opportunities, but no action was taken and thus, as there was no career progression for TA (IWDP), the petitioners had filed a writ petition, being W.P.(C) No. 338(AP)/2016 and this Court, by an order dated 14.07.2016, disposed of the writ petition with liberty to the petitioners to submit a fresh representation before the respondent authorities, who were directed to dispose of the said representation in accordance with law within a stipulated timeframe. Accordingly, the Special Secretary (RD), disposed of the representation submitted by the petitioners by a reply dated 25.04.2017, assuring that in the event of any future vacancies in the cadre of APO (RE), the possibility of accommodating candidates from both TA (IWDP) and TA (RE) would be explored.

9) Thereafter, upon approval granted by the State Government, the petitioner no.1 was given the charge of APO (RE) under DRDA, Pakke-Kesang for 6 (six) months vide order no. CD-219/2016(E) dated 11.03.2021; petitioner no.2 was granted charge of APO (RE) under DRDA, Basar for 6 (six) months vide order no. CD-219/2016(E)Pt. dated 11.03.2021; and petitioner no.3 was given charge of APO (RE) under DRDA, Shi-Yomi District for 2 (two) years vide order no. CD-219/2016(E) Pt dated 24.06.2020. The tenure of the petitioners as APO (RE) was extended from time to time.

10) The Government of Arunachal Pradesh had decided to wind-up/

discontinue DRDA in the State, for which notification no. DRD-11013/18/2022-DRD-RD/308 dated 22.02.2024 was issued, whereby with the concurrence of the Department of Administrative Reforms, Finance Department, Department of Law and Judicial, and approval of the Cabinet, a decision was also taken to absorb 588 DRDA employees in the Rural Development Department. As per the petitioners, their names appear at serial numbers 74, 63 and 64 respectively and they were designated as APO (RE), thereby confirming their absorption as regular APO (RE). However, by the impugned order dated 01.05.2025, the hereinbefore referred notification dated 22.02.2024 was amended, which had the effect of reducing the number of employees to be absorbed from 588 to 565 thus, removing 23 personnel, including the petitioners. Moreover, the posts of APO (RE) were brought down from 16 to 10, which means that persons who had been appointed against clear vacancies have been retained and persons who were appointed as In-Charge APO (RE) were removed.

11) Accordingly, it was stated that the said action was in complete violation of Article 14 and 21 of the Constitution of India and also in violation of previous orders dated 29.07.2002, 11.11.2003 and 08.02.2007, which clearly outlined the procedures and protections for appointment to the sanctioned posts. Moreover, as per the notification, the post of TA (IWDP) shall become Extension Officers, but the petitioners are still shown to be TA (IWDP).

12) It was projected in the writ petition that the petitioners were unaware of the said development until they came across I.A. No. 139/2025, filed by Sri Karsen Basar (respondent no.5) in W.P.(C) No. 467(AP)/2024, which was filed by the petitioner no.3 to assail the impugned order dated 08.10.2024, by which the private respondent was permitted to hold charge of the post of APO (RE) in Leparada, District Basar.

13) It has been stated that in the U.O. Note issued during consideration of the appointment of one Sri Konio Dada to the post of APO (RE), it was stated that no specific recruitment rules exist for selection to the post of APO (RE) and such appointments are made on the basis of government decisions from time to time, often following a *pick and choose* approach.

14) The petitioners have stated that in a RTI reply, it has been stated that there is neither any provision for regularisation of the said post nor any regular promotion has been made. It has been stated that the regular post of APO (RE) does exist as reflected in the common judgment and order dated 04.09.2019, passed by this Court in W.P.(C) No. 105/2016 and 5 (five) other writ petitions, which were filed by the petitioners and others, who were working as APO (RE) on deputation and they had challenged an order dated 18.02.2016, by which they were repatriated to their substantive post of Extension Officer (RE) in the Department of Rural Development and this Court had disposed of the said batch of writ petitions by leaving it open to the respondent authorities to deal with the petitioners [APO (RE)] in accordance with the applicable rules governing deputation.

15) Thus, the case of the petitioners is that they are aggrieved by the impugned notification dated 01.05.2025 as they have been discriminated as only their names have been excluded from consideration though they have been holding charge of APO (RE) since 2020/2021 and moreover, vide the hereinbefore referred two notifications dated 22.02.2024 and 01.05.2025, the deputationist APO (RE) were shown and treated as Regular APO (RE), while excluding the petitioners, who are direct employees of the DRDA and have been functioning as APO (RE) since 2020/ 2021 in the DRDA.

16) It has been stated that as per the RTI reply dated 27.11.2024,

16 (sixteen) sanctioned posts currently exist for the post of APO (RE), out of which 10 posts are occupied by persons appointed against clear vacancies and the remaining 6 (six) posts are being held by persons holding In-Charge responsibilities.

17) It has been stated that as per Clause 4.3 of the Guidelines on DRDA Administration, 2008, for selection of officers at the level of APOs and other technical staff, a Committee headed by the Secretary, Rural Development Department as Member Convener is required to be constituted, which has not been adhered to.

18) It has been stated that the notification dated 01.05.2025 was issued without securing clearance from the Department of Administrative Reforms and the Department of Law and Judicial and therefore, the action raises grave concern about procedural propriety, transparency and administrative discipline, pointing to an arbitrary and unsound exercise of executive authority. It was also stated that the Finance Department had already sanctioned Treasury Drawl of Pay and Allowances for the absorbed employees effective from 01.04.2025, which was marked to the Secretary (Rural Development), who had approved/ affirmed the sanction vide order dated 27.02.2025, owing to the absorption of 588 employees in the Rural Development Department.Thus, it is alleged that the issue of the amended notification dated 01.05.2025 is not only procedurally flawed, but shows bad intent for selectively removing certain personnel including the petitioners, without giving notice or hearing, and in violation of principles of natural justice, equality before law and institutional fairness.

19) The petitioners claim that they were regularly absorbed as TA (IWDP), presently serving in a higher grade and pay scale than EO (RE), and

their basic pay exceeds that of existing APO (RE) incumbents, are more qualified and suitable to hold the post of APO (RE). It has also been stated that several EO (RE) who have completed more than 20 years of service and operate at the level of APO (RE) are pressing their claim for appointment to the post of APO (RE), though the State Government has granted time-bound scale of APO (RE), thereby neutralising their claim for further appointment on that basis. It has been stated that revision of pay scale also covers EO (RE). It has also been stated that the petitioners must also get a chance for advancement in their career.

20) Accordingly, as the cases of the petitioners were not considered, the instant writ petition has been filed.

Case of the respondent nos. 2 and 3:

21) On behalf of respondent nos. 2 and 3, the Joint Block Development Officer, posted in the Office of the Directorate of Rural Development Department has filed an affidavit-in- opposition. It was stated that no rights of the petitioners have been violated and they cannot claim a right over the post of APO (RE). It was admitted that the petitioners were allowed to hold charge of APO (RE) in their own grade and pay-scale, which was extended from time to time, purely as a stop-gap arrangement, which did not amount to promotion to the post of APO (RE). It was stated that the list of 588 employees notified on 22.02.2024 was compiled on the basis of records received from various DRDAs and during compilation, the designation of the petitioners was inadvertently reflected as APO (RE) instead of their actual designation of TA (IWMP), resulting in an error in the notification. Thereafter, on receipt of claims and objections, pointing out certain errors and omissions in the list, a Committee was constituted to verify the relevant records and service particulars

vide file noting dated 08.10.2024. Upon verification, the Committee prepared a revised list of 565 employees, incorporating necessary corrections and rectifications, including correction of designation of the petitioners from APO (RE) to their actual designation as TA (IWDP) and submitted a report. Based on such report, the revised list of absorbed employees was prepared and notified by notification dated 01.05.2025, after obtaining Cabinet approval.

22) It was stated that no deputationist EO (RE) has been shown as APO (RE) in the revised list vide notification dated 01.05.2025. It was further stated that on the contrary, two EO (RE) incumbents at serial nos. 61 and 73 and one TA (RE) incumbent at serial no. 95, who were earlier shown as APO (RE) in the notification dated 22.02.2024, were corrected in the revised notification dated 01.05.2025, along with correction of the designation of the petitioners. It was stated that the employees of the erstwhile DRDAs were absorbed into the Department of Rural Development as dying cadre posts in accordance with the policy decision of the Government and thus, it is not relevant to dwell upon the internal administrative arrangements in the dissolved entity and that the reference to any alleged loopholes or administrative arrangements of the erstwhile DRDAs have no relevance at present. It has also been stated that as the petitioners have admitted that they do not have right to any post, there is no issue to be adjudicated by this Court.

23) Accordingly, it was stated that the writ petition be dismissed.

Submissions from both sides:

24) The learned counsel for the petitioners as well as the learned standing counsel for the Rural Development Department have made their respective submissions in accordance with the stand taken in their respective

pleadings. Therefore, the narration of their respective submissions would be a mere repetition in this judgment and order. Moreover, the learned standing counsel for the respondent nos. 2 and 3 has cited the case of *Union of India v. Narendra Singh, (2008) 2 SCC 750:(2007) 0 Supreme(SC) 1615*, in support of his submissions that mistakes can be corrected by following due process of law.

25) It has been admitted by the petitioners that they fall under the category of *Wage Employment Wing* of the DRDA. As per Clause- 2 (IV) (i) of the OM dated 20.05.2003, regarding personnel policy for recruitment of staff for administration of DRDAs (Annexure-1 to the writ petition),the post of APO (RE) in the pay-scale of Rs.8,000- 13500/- is to be manned by taking deputationist from the cadre of EO (RE) of Rural Development Department, having minimum service of 11 (eleven) years in their grade of Rs.4500- 7500/- or 8 (eight) years of service in the grade of 5500- 9000/- or 5 (five) years in the grade of Rs.6500- 10500/-. As per Clause 2 (IV) (ii) of the said OM, it is provided that the post of TA (IWDP) in the scale of 6500- 10500/- and TA (RE) were to be manned by deputationist drawn from the cadre of EO (RE) of Rural Development Department having minimum 5 (five) years' service in their grade. Under both circumstances of Clause 2 (IV) (i) and 2 (IV) (ii) referred above, on failure to make appointment by deputationist, direct recruitment was permitted on contract basis with consolidated salary.

26) Therefore, the Court is of the considered opinion that notwithstanding the creation of temporary posts, amongst others, of TA and APO (RE) vide order dated 29.07.2002, and 192 additional temporary posts created in the DRDAs vide order dated 11.11.2003, or on account of any other order or notification, on the aforesaid OM dated 20.05.2003 coming into force, the recruitment to all the posts placed under the DRDA can only be done as per

the terms and conditions of the policy vide the said OM dated 20.05.2003.

27) The claim of the petitioners is to the following effect: -

a. In respect of the petitioner no.1, his service was regularised vide order dated 11.05.2007, but he does not have a copy of the regularisation order.

b. In respect of the petitioner no.2, pursuant to the approval order no. CD-27/2005(E) dated 02.04.2007, the petitioner no.2, who was TA (IWDP) Contract Service was appointed as TA (IWDP) under DRDA, Changlang, on regular basis with effect from 03.04.2007 (F/N) in the scale-pay of Rs.6500-200-10500/- per month with other allowances and concessions as admissible at par with that of employees of Govt. of Arunachal Pradesh under relevant rules and orders in force from time to time under DRDA, Changlang.

c. In respect of the petitioner no.3, on completion of 12 months of satisfactory performance, his service was regularised as TA (IWDP) in the scale-pay of Rs.6500-200-10500/- per month with other allowances and concessions as admissible from time to time vide order dated 21.11.2008. In the said order, which was passed by the Project Director, DRDA, Lohit District, it was provided that other terms and conditions which are not specified therein shall be governed by the relevant rules and regulations received from the Government from time to time.

28) Thus, from the documents annexed to the writ petition at Annexure-5 series, it is seen that the Secretary (RD), Govt. of Arunachal Pradesh, Department of Rural Development, vide letter no. CD-

219/2016(E)/Pt/519 dated 21.09.2021, by referring to the previous letter dated 11.03.2021, informed the Deputy Commissioner-cum-CEO, DRDA, Basar District, Leparada, regarding the Government approval of the petitioner no.2, Sri Sai Kotin, TA (IWDP) as APO (RE), under DRDA, Basar for a further period of 6 (six) months with effect from 01.10.2021, in his own grade and scale of pay. Accordingly, the Deputy Commissioner -cum- CEO, DRDA, Basar District, Leparada, was directed to issue formal orders with intimation to all concern. In the subject of the said letter, it has been clearly mentioned as follows – "*Sub: - Extension for look after the charge of APO (RE) in DRDA, Basar*." Thus, though the approval was for appointing the petitioner no. 2 to look after the charge of APO (RE) in DRDA, Basar, in his own grade and pay, it appears that the Deputy Commissioner -cum- CEO, DRDA, Basar District, Leparada, in the letter head of the Project Director, DRDA, District- Basar, Leparada, had exceeded his jurisdiction and appointed the petitioner no. 2 as APO (RE) under DRDA, District- Basar, Leparada.

29) However, vide subsequent letters dated 04.04.2022 and 20.03.2023, the Secretary (RD), Rural Development Department and the Director, Rural Development Department respectively, had conveyed approval of the Government for continuation/ extension of the appointment of the petitioner, namely, Sri Sai Kotin, TA (IWDP) as APO (RE), under DRDA, Basar, under his own grade and scale of pay. Thus, insofar as the Government is concerned, it had always treated the petitioner no.2 as TA (IWDP). Hence, apart from the hereinbefore referred order dated 27.10.2021, purportedly appointing the petitioner no. 2 as APO (RE), which does not create any substantive right in favour of the petitioner no.2, there is no Government order to appoint the petitioners as APO (RE), save and except to hold charge. Thus, the substantive

designation of the petitioners remain as TA (IWDP).

30) Under the circumstances, the amendment of the order no. DRD-11013/18/2022-DRD-RD/308 dated 22.02.2024, which was published in the Arunachal Pradesh Gazette with order no. DRD-11013/18/2022-DRD-RD/308 dated 01.05.2025, cannot be faulted with. It is not impermissible for the Government to rectify its mistake, for which the Court finds support from the case of *Narendra Singh (supra)*, cited by the learned standing counsel for the respondent nos. 2 and 3. The relevant paragraphs as extracted from *(2007) 0 Supreme (SC) 1615*, are quoted below:-

> ***28**. It is true that the mistake was of the department and the respondent was promoted though he was not eligible and qualified. But, we cannot countenance the submission of the respondent that the mistake cannot be corrected. Mistakes are mistakes and they can always be corrected by following due process of law. In Indian Council of Agricultural Research and Anr. v. T. K. Suryanarayan and Ors. , (1997) 6 SCC 766, it was held that if erroneous promotion is given by wrongly interpreting the rules, the employer cannot be prevented from applying the rules rightly and in correcting the mistake. It may cause hardship to the employees but a court of law cannot ignore statutory Rules.*
>
> ***29**. As observed by us, Statutory Rules provide for passing of Departmental Examination and the Authorities were right in not relaxing the said condition and no fault can be found with the Authorities in insisting for the requirement of law. In the circumstances, the action of the Authorities of correcting the mistake cannot be faulted.*
>
> ***30**. True it is that before such an action is taken and a person is actually reverted, he must be given an opportunity to show cause why the proposed action should not be taken. He may be able to satisfy the Authorities that there was no such mistake. But even otherwise, principles of natural justice and fair play require giving of such opportunity to him. But as observed earlier, in the instance case, in accordance with Rule 31-A of the Fundamental rules, notice was issued to the respondent-employee, explanation was sought and thereafter the order was passed. The said order, in our considered view, was just, proper and in consonance with law and it ought not to have been set aside by the Tribunal or by the High court. To that extent, therefore, the orders impugned in this appeal deserve to be set aside.*

31) Coming to the facts of this case, as discussed hereinbefore, the petitioners are found to have been holding the substantive post of TA (IWDP) and they were allowed to hold charge of the post of APO (RE). Though the petitioner no. 2 was appointed as APO (RE) by the Deputy Commissioner, Basar, vide order dated 27.10.2021, but the approval by the Government vide letter dated 11.03.2021, was only to allow him to hold charge as APO (RE). The said mistake appears to have been corrected because by subsequent extension approvals communicated vide letters dated 21.09.2021 and 04.03.2023, the petitioner no.2 was shown as TA (IWDP) and he was allowed to hold charge as APO (RE).

32) The hereinbefore referred OM No. CD-583/99(E) dated 20.05.2003, by which Personnel Policies for Recruitment and Engagement of the Staff for Administration of DRDAs, does not envisage direct appointment to the posts, but they are required to be filled up by way of deputation from amongst EO (RE), failing which contractual appointment is permitted to be made. There is no document to show that the petitioners were promoted from the post of TA (IWDP) to the next higher post of EO (RE). Therefore, for all intents and purposes, the petitioners continue to hold the post of TA (IWDP).

33) Therefore, at best, the petitioners may move the Government to consider their cases for promotion, if there are vacancies in the next higher promotional post and if there is no immediate vacancies, to consider their cases in accordance with the applicable service rules, as and when any vacancy arises. Moreover, if no vacant posts are available, to grant them ACP/MACP, by whatever nomenclature used in the State of Arunachal Pradesh, if not already granted.

34) Therefore, in light of the discussions above, this writ petition

fails and the same is dismissed. The parties shall bear their own cost.

JUDGE

Munna Kumar

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Date: 2026.10.01 16:40:30 +05'30'

Comparing Assistant **Pvt. Secretary**