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APHC010294092021

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3330]
(Special Original Jurisdiction)

THURSDAY, THE 24th DAY OF SEPTEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No. 17792/2021

BETWEEN:

1. K.V.S. RAMA RAO, S/o. LATE K.V.S. MADHUSUDHAN RAO, AGE. 33 YEARS, WORKING AS JUNIOR AUDITOR, O/o. THE ASSISTANT AUDIT OFFICER, STATE AUDIT (ZP), GUNTUR, GUNTUR DISTRICT, ANDHRA PRADESH.

...PETITIONER

AND

1. THE STATE OF A P REPRESENTED BY ITS SECRETARY, FINANCE AND PLANNING DEPARTMENT GOVERNMENT OF ANDHRA PRADESH, SECRETARIAT, AMARAVATHI, GUNTUR DISTRICT, ANDHRA PRADESH.
2. THE DIRECTOR OF STATE AUDIT, GOVERNMENT OF ANDHRA PRADESH, IBRAHIMPATNAM, VIJAYAWADA, KRISHNA DIST., ANDHRA PRADESH.
3. THE REGIONAL DEPUTY DIRECTOR, STATE AUDIT, ZONE-ILL, ONGOLE, PRAKASAM DISTRICT, ANDHRA PRADESH.
4. THE DISTRICT AUDIT OFFICER, STATE AUDIT, GUNTUR, GUNTUR DIST. ANDHRA PRADESH.
5. THE ASSISTANT AUDIT OFFICER, STATE AUDIT (ZP), GUNTUR, GUNTUR DISTRICT, ANDHRA PRADESH.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more in the nature of writ of Mandamus directing the 4th Respondent to regularize the services of the Petitioner and declare the probation of the petitioner in terms of the orders of appointment in proceedings S.A.No.45/2015-16, dated 8.5.2015 and declare the probation of the Petitioner in terms of the Special Rules issued to Andhra Pradesh State Audit Subordinate Service Rules reissued vide G.O.Ms.No.213, Finance and Planning (F.W.Admin.II) Department dt. 18.7.2006 and consider Petitioners case for promotion as Senior Auditor while holding that non-regularizing of Petitioner's services and declaration of probation in terms of orders of appointment in S.A.No.45/2015-16, dated 8.5.2015 is illegal, arbitrary and against article 14, 16 and 311 (2) of constitution of India and pass such other order or orders.

Counsel for the Petitioner:

1. Y V SATYANARAYANA

Counsel for the Respondent(S):

1. GP FOR SERVICES I

The Court made the following:

ORDER:

The Writ Petition is filed under Article 226 of the Constitution of India for the following relief/s:

> "….to issue a writ, order or direction more in the nature of writ of Mandamus directing the 4th Respondent to regularize the services of the Petitioner and declare the probation of the petitioner in terms of the orders of appointment in proceedings S.A. No.45/2015-16, dated 8.5.2015 and declare the probation of the Petitioner in terms of the Special Rules issued to Andhra Pradesh State Audit Subordinate Service Rules reissued vide G.O.Ms.No.213, Finance & Planning (F.W.Admin.II) Department dt.18.7.2006 and consider Petitioner's case for promotion as Senior Auditor while holding that non-regularizing of Petitioner's services and declaration of probation in terms of orders of appointment in S.A. No.45/2015-16, dated 8.5.2015, is illegal, arbitrary and against article 14, 16 and 311 (2) of constitution of India and pass such other order or orders….."

2. It is stated in the affidavit filed in support of the writ petition that the father of the petitioner died in harness on 20.01.2015 while he was discharging his duties in the office of District Audit Officer, State Audit (Post Audit Wing) and the 4th respondent appointed the petitioner as Junior Auditor vide proceedings S.A. No.45/2015-16, and the order reads as follows:

(i) “Under Rule 10(a)(1)(1) of A.P. State and Subordinate Service Rules 1996 and in terms of G.O.Ms.No.687 G.A.(Ser.A) Department, dt.03.10.1997 read with Government Memo No.618, Ser.A, 78-11 dated 17.12.1979 and G.O.Ms.No.612 (Ser.A) Department dated 30.10.1991 read with Government No.60681 Ser.A/2003(1, GAD Ser.A. Department, dated 12.08.2003 and G.O.Ms.No.650, G.A.(Ser.A) Department, dated 30.07.1999, Sri K.V.S. Rama Rao, S/o. Late K.V.S. Madhusudana Rao, is temporarily appointed as Junior Auditor on Compassionate grounds in the time scale of 8440-24950 in RPS 2010 plus usual allowances attached to the post and posted to office of the Assistant Audit Officer, State Audit, (Z.P.) Guntur in the existing vacancy.”

(ii) and the said appointment is subject to antecedents, character verification of the petitioner and it is purely temporary and it enables the respondents for termination without any reasons or notice. Accordingly, the petitioner was joined in service as Junior Auditor in the office of the 5th respondent on 13.05.2015 on the orders issued by the 4th respondent. It is further asserted in the affidavit that the Additional Director General of Police, Intelligence, Andhra Pradesh, Vijayawada, IB 345/17 dated 23.10.2018 has verified antecedents and character of the petitioner and no adverse recorded against the petitioner.

3. The grievance of the petitioner is that the 4th respondent has not regularized the services of the petitioner despite receiving the necessary antecedents from the police department on 23.10.2018, the petitioner's services not regularised, and probation has not been

declared in accordance with Rule 16 of the Andhra Pradesh State and Subordinate Service Rules, as well as G.O.Ms.No.213, Finance and Planning (F.W. Admn.II) Department, dated 18.07.2016.

4. It is further stated that G.O.Ms.No.213, issued by the Finance and Planning (F.W. Admin.II) Department on 18.07.2016, designates the District Audit Officer, State Audit in each District, as the appointing and disciplinary authority. It clearly outlines that the qualification required for the post of Junior Auditor is a pass in the intermediate examination or an equivalent examination for direct recruitment. And the petitioner was appointed on a compassionate basis, the vacancy should be considered as direct recruitment. The petitioner holds a Polytechnic Diploma, a three-year course deemed equivalent to the intermediate qualification required for the Junior Auditor position, making them fully eligible and qualified to hold the post.

5. Therefore, it is contended that the appointment of the petitioner has to be regularized after receiving antecedents from the police department and the probation has to be declared according to A.P. State and Subordinate Service Rules, 1996 as outlined in G.O.Ms.No.213 Finance and Planning (F.W. Admn.II) Department, dated 18.07.2006. Despite, submitting the representations dated 08.02.2019, 01.10.2018, the respondents have not passed any orders regularizing the services of the petitioner or declared the probation.

Therefore, the present Writ Petition is filed to direct the respondents to regularize the services of the petitioner as Junior Auditor and to declare the action of the respondents as arbitrary, illegal and in violation of Article 311(2) of the Constitution of India.

6. Learned counsel for the petitioner placed reliance in G.O.Ms.No.213, Finance & Planning (F.W. Admn.II) Department, dated 18.07.2006. According to the G.O.Ms.No.213, Finance & Planning (F.W. Admn.II) Department, the Government has framed Rules for the State of Andhra Pradesh namely, the A.P. State Audit Subordinate Service Rules reissued. The rules that framed under G.O.Ms.No.213 from the Finance & Planning (F.W. Admn.II) Department, stipulate that the qualification required for appointment to the post of Junior Auditor through direct recruitment is pass in Intermediate Examination or any equivalent examination. Additionally, it is stated that these rules are special rules that prevail over the Andhra Pradesh Ministerial Service Rules of 1998, as they have neither been superseded nor set aside. Therefore, the A.P. State and Subordinate Service Rules will prevail over other regulations, and not regularising the services of the petitioner is deemed illegal and a violation of these rules and relied on the judgment of the Hon'ble Apex Court in the case of ***St. Stephen's College v. University of Delhi (CB)***[1] for the proposition that special

[1] (1992) 1 SCC 558

rules prevail over the general rules and the counsel also relied on the Judgment in the case of ***N. Shankar Prasad v. State of Andhra Pradesh, represented by its Principal Secretary, Home Department and others***[2]. A learned single Judge of this Court, referred the judgment in R.S. Raghunath v. State of Karnataka, the Hon'ble Supreme Court in the said judgment it is held that the special law prevails over general law with one exception and that is a later general law prevails over earlier special law, if it clearly indicates the intention to supersede the special law. It is further observed at paragraph no.31 that the special rules will prevail over the general rules. And also relied on the judgment of the Hon'ble Apex Court in the case of ***Maya Mathew v. State of Kerala and others***[3], wherein the Hon'ble Apex Court at paragraph No.12 stated that the Rules of interpretation when a subject is governed by two sets of rules are well settled. They are

> (i) When a provision of law regulates a particular subject and a subsequent law contains a provision regulating the same subject, there is no presumption that the latter law repeals the earlier law. The rule-making authority while making the later rule is deemed to know the existing law on the subject. If the subsequent law does not repeal the earlier rule, there can be no presumption of an intention to repeal the earlier rule;

[2] 2020 SCC OnLine AP 1034
[3] (2010) 4 SCC 498

(ii) When two provisions of law – one being a general law and the other being a special law govern a matter, the Court should endeavour to apply a harmonious construction to the said provisions. But where the intention of the rule-making authority is made clear either expressly or impliedly, as to which law should prevail, the same shall be given effect.

(iii) If the repugnancy or inconsistency subsists in spite of an effort to read them harmoniously, the prior special law is not presumed to be repeated by the later general law. The prior special law will continue to apply and prevail in spite of the subsequent general law. But where a clear intention to make a rule of universal application by superseding the earlier special law is evident from the later general law, then the later general law, will prevail over the prior special law.

(iv) Where a later special law is repugnant to or inconsistent with an earlier general law, the later special law will prevail over the earlier general law.

And also relied on the judgments of the Hon'ble Apex Court in the case of ***M/s. Harcharan Dass Gupta v. Union of India***[4], wherein the Hon'ble Supreme Court held that a State Legislation to protect MSMEs by setting out a statutory mechanism for the payment of interest on delayed payments, the said Act would override, the provisions of the Arbitration Act, 1996 which is a general legislation. And also relied on the order in O.A. No.5105 of 2007 for the very same proposition that the special law will prevail over the general law, and confirmed the same

[4] AIR 2025 SC 2800

vide order in W.P. No.17193 of 2008, dated 13.10.2008. Learned Counsel appearing for the petitioner further argued that there is no such clause in the appointing order indicating that the petitioner has to obtain degree certificate, and in the absence of the same, the respondents cannot postpone the regularization of services and declaration of probation of the petitioner. On the aforesaid grounds, it is urged to direct the respondents to regularize the services of the petitioner by declaring the probation.

7. The 4th respondent has filed counter affidavit on his behalf and on behalf of other respondents. It is stated that in the appointment order, it has been categorically stated that under Rule 10(a)(1)(1) of A.P. State and Subordinate Service Rules 1996 and in terms of G.O.Ms.No.687 GA (Ser.A) Department, dated 03.10.1977 read with Government Memo No.618 Ser.A 78.11 dated 17.12.1979 and G.O.Ms.No.612 GA (Ser.A) Department dated 30.10.1991 read with Government Memo No.60681 Ser.A/2003-1, GAD Ser.A Department dated 12.08.2003 and G.O.Ms.No.350, GA (Ser.A) Department dated 30.07.1999 the petitioner temporarily appointed as Junior Auditor on compassionate grounds and posted in the office of Assistant Audit Officer, State Audit (Z.P.) Guntur. The petitioner was not qualified to hold the post of Junior Auditor at the time of his joining. He had diploma qualification which is equivalent to intermediate.

8. While making compassionate appointment to the post of Junior Auditor which is equivalent to Junior Assistant, if a person does not has Degree qualification, he may be allowed for appointment on compassionate ground for the post of Junior Auditor with a condition to acquire the requisite qualification within 5 years from the date of joining as per the Memo No.60681/Ser.A/2003-1, GAD Ser. Department dated 12.08.2003. In the appointment order of the petitioner, the said memo was cited. But, however, the condition was not specifically mentioned in the appointment order. And the A.P. State Audit Subordinate Service Rules 2006 issued in G.O.Ms.No.213, Finance & Planning dt. 18.07.2006, which was mentioned by the petitioner are specific rules meant for appointment by direct recruitment in State Audit Department. Moreover, the qualification mentioned in Rule 14(1)(c) of Andhra Pradesh Ministerial Service Rules, 1998 was added for the words 'Intermediate' examination conducted by the 'Andhra Pradesh State Board of Intermediate Education, with the words 'Bachelors Degree of any University in India or incorporated by or under a Central Act, State Act or Provincial Act or an Institution recognized by the University Grants Commission, shall be substituted in the orders of G.O.Ms.No.135 GAD (Ser.B) Department dated 12.05.2014 and the petitioner was appointed on 08.05.2015 which was not prior to 12.05.2014 so the petitioner must possess degree to hold the post of

Junior Auditor as per the orders stated in G.O.Ms.No.135 GAD (Ser.B) Department dated 12.05.2014. As the petitioner not possess the requisite qualification, the 4th respondent could not declare his probation and regularize his services and prayed to dismiss the writ petition.

9. Heard learned counsel for the petitioner Sri Y.V. Satyanarayana for the petitioner and the learned Government Pleader Sri G. Raju for the respondents.

10. POINT FOR CONSIDERATION:

The Andhra Pradesh State and Subordinate Rules, 1962 that framed under Article 309 of the Constitution of India, rules were superseded Andhra Pradesh State and Subordinate Service Rules, 1996.

11. The vehement argument of the petitioner's counsel is that the reissued Andhra Pradesh State Audit Subordinate Service Rules are special rules, while the A.P. State and Subordinate Service Rules 1996 and the A.P. Ministerial Service Rules are to be considered as general rules and that the special rules will prevail over the general rules, the requirement of passing the degree examination as outlined in Rule 6 of the A.P. Ministerial Service Rules of 1998 does not apply and it is contended that the respondents are obligated to declare the probation

of the petitioner consequently to regularise the service of the petitioner in the Junior Auditor. As the petitioner has possessed the requisite qualification of intermediate.

12. Now, the Court shall examine the Special Rules and general rules and which rules are relevant in the context.

> Under Rule 1(d) of A.P. State and Subordinate Service Rules 1996: it is outlined as follows:-
>
> "1(d) Relation to Special Rules:- If any provisions in these rules are repugnant to the provisions in the special rules applicable to any particular service in regard to any specific matter, the latter shall, in respect of such service and such specific matter, prevail over the provisions in these rules."

13. The expression "Special Rules" is defined under Rule 2(31). "Special Rules" mean the rules applicable to each service or Class or Category of a Service which include ad-hoc rules applicable to a temporary post in a service, or Class or Category which are not covered by the special rules.

14. Explanation: The words importing either gender in these or special rules shall be taken to include those of the other gender if circumstances so require.

15. The special rules as defined under rule 2 (31) means that the rules that govern a particular department, job category, or position, including temporary ones that don't fit into the standard rules. In other words, each department has its own rules for recruitment and they are called Special Rules.

16. No doubt according to 1(d) of the Rules when in the event of conflict between the General Rules and any Special Rules applicable to any particular service, the special Rules prevail over the General rules and the judgments referred to by the petitioner's counsel specifies the same.

17. Now the issue for consideration is this writ petition is that whether petitioner is required to be possess the Degree pass certificate to hold the post Junior Auditor in pursuant to the rules under Andhra Pradesh State Audit Subordinate Service Rules reissued vide G.O.Ms.No.213, Finance & Planning (F.W.Admin.II) Department dt.18.7.2006 which are special rules according to the petitioner's counsel where the rule 6 outlines that A.P. State Audit Subordinate Service Rules Intermediate or its equivalent is sufficient for the post of Junior Auditor.

18. According to Rule 6 of Audit Subordinate Service Rules: "No person shall be eligible for appointment to the category specified in column (1) of the annexure by the method specified in the

corresponding entity in the Column (2) there's, unless he possess the qualification specified in the corresponding entry in Column (3) ordered.

ANNEXURE
(See rule - 6)

Category	Method of appointment	Qualification
(1)	(2)	(3)
2. Junior Auditor	i) By direct Recruitment	(i) (a) A pass in Intermediate Examination or any equivalent examination (b) Preference shall be given to the pass outs of Intermediate Vocational Courses in (i) Office Assistantship and (ii) Accounting and Taxation

19. It is not in dispute that the Andhra Pradesh State Audit Subordinate Service Rules, are Special Rules within the meaning of Rule 2 (31) of the A.P. Subordinate Service Rules, 1996.

20. The Andhra Pradesh Ministerial Service Rules prescribe Degree Qualification for the post of Junior Auditor and the relevant rule is extracted as it is imperative to deal with the issue.

21. Rule 6 of A.P. Ministerial Service Rules, 1998, is extracted hereunder:

> 6. Qualifications: (1) No person shall be eligible for appointment to the categories specified in column (1) of Annexure 1 to these rules by the method specified in column (2) thereof, unless he possesses the qualifications specified in the corresponding entry in column (3) thereof.
>
> (2) No person shall be eligible for appointment to any post in the service either by direct recruitment or by appointment by transfer or by promotion, including conversion, unless he possesses the

Intermediate qualification and where a higher educational qualification is prescribed for such post, such higher qualification:

22. Qualification of the post of Junior Assistant in the Offices other than Heads of Departments & Directorates, as per Annexure I [Rule 6(1)] of A.P. Ministerial Service Rules, 1998:

	Class & Category (1)	Method of recruitment	Qualifications
CLASS-A			
	Junior Asst. in the Offices other than Heads of Depts. & Directorates	By direct recruitment	*[Must hold a Bachelor's Degree of any University in India established or incorporated by or under a Central Act, State Act or Provincial Act or an Institution recognized by the University Grants Commission or any equivalent qualification.]
		*[Subs. By G.O.Ms.No.135, G.A. (Ser.B) Dept., Dt.12.05.2014]	

23. In the case of ***Thota Nagaiah vs State of A.P.***[5] a coordinate bench of this Court in para No.30 held the A.P. Ministerial Service Rules are Special Rules.

24. "In view of my foregoing discussion, I am of the considered view that the service conditions of Junior Assistants and Typists in the Irrigation Department, including their seniority are governed by the Andhra Pradesh Ministerial Service Rules, 1998 and the Andhra

[5] 2021 SCC OnLine AP 261

Pradesh Ministerial Service Rules, 1998 are special rules which will prevail over the general rules i.e. the Andhra Pradesh State and Subordinate Service Rules, 1996."

25. The Apex Court in the case of ***S.P. Badrinath vs Govt. Of A.P. And Ors.***[6] held that the short question that arises for consideration in the present appeals is as to whether passing of the Accounts test for the post of Senior Assistant was a pre-requisite. The contention of the appellant is that since the Andhra Pradesh Ministerial Service Rules, 1966 did not apply to the Department of Chief Electrical Inspectorate, the said condition is not applicable in his case.

26. It is not in dispute that the services of the appellant were governed by the Andhra Pradesh Ministerial Service Rules, 1966. Rule 23 of the said Rules provides for special qualifications required to hold certain posts. It has been provided therein that passing of the Accounts Test for Subordinate Officers Part-I, is an essential qualification for holding the post of Senior Assistants. It is not the case of the appellant herein that the Chief Electrical Inspectorate at any point of time ceased to be a Department under the Government of Andhra Pradesh or by reason of creation of Chief Electrical Inspectorate in the State in place of the Department of Electricity, the service conditions of the appellant were no longer governed under the Andhra Pradesh Ministerial Service

[6] (2003) 8 SCC 1

Rules. In that view of the matter, there cannot be any doubt whatsoever that the said Rules were applicable in the case of the appellant throughout. Only because at a later stage a notification was issued by the Government of Andhra Pradesh to the effect that the Head of the Chief Electrical Inspectorate shall be the Chief Engineer in place of Chief Electrical Inspector; the same by itself would not mean that the Andhra Pradesh Ministerial Service Rules and in particular Rule 23 aforementioned, had specifically been made applicable in case of the employees of the Chief Electrical Inspectorate only thereafter. Once it is held that the office of the Chief Electrical Inspector or the Chief Engineer, as the case may be, was a Department of the Government of Andhra Pradesh, Rule 23 must be held to be applicable.

27. The Apex Court in the aforementioned case held since the employee fall under the Department of the Government of Andhra Pradesh, the service conditions of the employee were governed under the Andhra Pradesh Ministerial Service Rules 1998, and the counsel for the petitioner have admitted that the petitioner is subject to the Andhra Pradesh Ministerial Service Rules, 1998. When the rule 6 mandates that, a bachelors degree is an essential qualification for holding the post Junior Auditor according to rule 6 of the A.P. Ministerial Service rules 1998.

28. Andhra Pradesh Ministerial Service Rules 1998 has been considered as special rules according to these rules the Bachelors Degree is the requisite qualification to appoint as Audit officer. The Apex Court in the aforementioned case held since the employee fall under the Department of the Government of Andhra Pradesh, the service conditions of the employee were governed under the Andhra Pradesh Ministerial Service Rules 1998. Therefore, this Court is of the opinion that the Bachelors degree is the requisite qualification for appointment as Audit officer. It is trite law that the rules prevailing on the date of application, is to be considered it has for compassionate appointment under the rehabilitation scheme. The Ministerial Service Rules, 1998 are existing on the date of appointment of the petitioner. Consequently, the argument that raised not the petitioner's counsel is legally unsustainable under law. Accordingly, it is rejected.

29. In the appointment order of the petitioner, it was not specifically asserted that the petitioner shall possess the degree certificate while making compassionate appointment to the post of Junior Auditor which is equivalent to Junior Assistant, indicating that if a person does not has Degree qualification, he may not be allowed for regularisation of the service on compassionate ground for the post of Junior Auditor or it was directed that the petitioner shall acquire the requisite qualification within 5 years from the date of joining as per the Memo No.60681/Ser.A/2003-

1, GAD Ser. Department dated 12.08.2003. Although, in the appointment order of the petitioner, the said memo was cited. But, it is admitted in the counter that the condition was not specifically mentioned in the appointment order. After lapse of 11 years, the respondents cannot deny the regularisation of the petitioner on the said ground. If the respondents would have been stated in the earliest, the petitioner would have been obtained the requisite qualification. Although, the A.P. State and Audit Subordinate Service Rules does not applicable to the petitioner, the said rules outlines the intermediate is the requisite qualification for the post of auditor.

30. Therefore, the Court directs the respondents to consider the case of the petitioner for declaration of probation and consequently to regularise the service of the petitioner from the date of appointment.

31. Accordingly, the writ petition stands disposed of. No order as to costs.

Consequently, the interlocutory applications pending, if any, shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 24.09.2026
Harin

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THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

W.P.No. 17792 OF 2021

Date: 24-09-2026

Harin

HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

MAIN CASE: C.R.P. No. 2027 OF 2026

PROCEEDING SHEET

Sl. No	DATE	ORDER	Office Note
2.	24.08.2026	**TRR, J** The Civil Revision Petition is disposed of. [vide separate order] **TRR,J** Harin	