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APHC010397952025

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI **[3584]**

WRIT PETITION NOs:20535 and 13992 of 2025,

22694 of 2020 & 50 and 155 of 2021

G.Gnana Prasuna and Others ...Petitioner(s)

Vs.

The State Of Andhra Pradesh and Others ...Respondent(s)

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CORAM : THE CHIEF JUSTICE LISA GILL

SRI JUSTICE CHALLA GUNARANJAN

DATE : 16th October 2026

Present:

Advocate for Petitioner(s): HARINATH REDDY SOMAGUTTA
K.RATHANGAPANI REDDY
M.SRIKANTH

Advocate(s) for Respondent(s): K.KRITHI TEJA, GP ATTACHED TO ADDL. A.G.
MURALI LINCOLN
P.SHREE RAM
K SATYANARAYANA MURTHY

COMMON ORDER: (per Hon'ble Sri Justice Challa Gunaranjan)

Since issues raised in all these writ petitions are interconnected and challenge the validity of Rule 6 of A.P. College of Nursing Service Rules, 1996, issued via G.O. Ms. No.101, Health, Medical and Family Welfare (M1) Department, dated 04.04.1997, they have been collectively taken up for consideration and disposed by common order.

2. Prayers made in W.P. Nos.20535 of 2025, 13392 of 2025, 22694 of 2020, and W.P. No. 155 of 2021 are more or less similar, which assail the validity of Rule 6. In W.P. No. 50 of 2021, the petitioners, who later challenged the validity of the rule in W.P. No. 20535 of 2025, challenged integrated seniority list issued by 3rd respondent therein, by which, petitioners were placed in Annexure-II in the category of Nursing Tutor Grade-II, whereas the unofficial respondents were placed in the category of Staff Nurses.

3. Since the very validity of impugned rule, which is the basis for preparation of such integrated seniority list, is under challenge, we do not propose to examine inter-se seniority among the parties to the said writ petition. It would suffice to refer facts narrated in

W.P. No.20535 of 2025, as learned counsel for petitioners argued by treating the same as lead case.

4. The prayer made in Writ Petition No.20535 of 2025 is as under:

> "to issue a writ order or direction more particularly one in the nature of Writ of Mandamus declare the impugned Rule-6 of AP College of Nursing Special Rules issued in G.O.Ms.No.101, dated 04.04.1997, insofar as it prescribed the minimum service for promotion to the post of Lecturer in Nursing from the post of Nursing Tutor Grade-II as illegal, infirmity, arbitrary, against Article 14, 16 & 21 of the Constitution of India and contrary to the law laid down by the Hon'ble Supreme Court in Shakuntala Sharma v. High Court Of Himachal Pradesh At Shimla reported in 1994 SCC (2) 411, dated 02.02.1994 and set aside the same and consequently direct the respondents to review the panels from 2022-23 for the post of Lecturer of Nursing and accordingly consider the claim of the petitioner for notional promotion in the post Lecturer of Nursing on par the juniors with all consequential benefits and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

5. Brief facts emanating from the pleadings of the writ petition are as under:

(a) Petitioners were initially appointed as Staff Nurse and later promoted to Nursing Tutor Grade-II and further as Lecturers. The details are set out as under:

Number of Petitioners	Staff Nurse appointment	Promoted to Nursing Tutor Grade – II on	Promoted to Lecturer on
1st	28.10.1992	08.07.2016	November, 2022
2nd	25.10.1992	08.07.2016	November, 2022
3rd	23.10.1992	08.07.2016	November, 2022
4th	28.08.1995	08.07.2016	November, 2022
5th	31.08.1995	08.07.2016	November, 2022

(b) Initial selection of Staff Nurses and further promotion as Nursing Tutor Grade-II was governed by Nursing Service Rules. Later, the petitioners' further promotion as Lecturers in Nursing Colleges was governed by A.P. Colleges of Nursing Service Rules, 1996 (hereinafter referred to as "Rules, 1996").

(c) Petitioners possess qualification of M.Sc. Nursing. Petitioners have been appointed as Lecturers by way of promotion from the feeder category of Nursing Tutor Grade-II after considering their minimum service in the said post in terms of Rule - 6. Even before petitioners were promoted as Lecturers, when respondents have issued proceedings for revision of DPC for panel year 2018–19 by considering final integrated seniority list

issued on 07.01.2019, which depicted petitioners in Annexure-1 under the category of Nursing Tutor Grade-II and names of unofficial respondents in Annexure-3 under category of Staff Nurses, as the same was prejudicial and affecting prospects of promotion, initially, W.P. No.50 of 2021 was filed. This Court, while issuing notice, by order dated 18.01.2021, placed the impugned proceedings in abeyance till next date of hearing. The record, however, does not indicate extension of the order thereafter.

(d) Be that as it may, since petitioners did not put in minimum service of three years in the cadre of Nursing Tutor Grade-II in terms of Rule - 6 of the Rules, which became an impediment in considering their cases for appointment as Lecturers by way of transfer, and the unofficial respondents, though were much juniors in the cadre of Staff Nurses, still they were marching ahead in view of the method of appointment envisaged under Rule 3, petitioners chose to challenge the very rule itself.

(e) At this stage, it was brought to our notice that petitioners in W.P. No.22694 of 2020 stated to have initially filed O.A. No.1620 of 2018 before A.P. Administrative Tribunal, wherein, by way of interim direction, respondents therein were directed to consider the case of applicants for promotion to the post of Lecturer treating

them under Category 4 of Rule 3 i.e., Staff Nurse. However, State challenged the same in W.P. No.32057 of 2018 and by order dated 04.12.2018, the interim order passed by Tribunal was set aside as promotions were found to be effected in tune with Rule 6 of the impugned rules.

(f) In these circumstances, petitioners were constrained to challenge the validity of the rule itself, which prescribes minimum service of three years in the cadre of Nursing Tutor Grade-II for being promoted as Lecturer.

6. Both official respondents as well as the unofficial respondents filed detailed counters opposing the writ petition.

7. Heard Sri Harinath Reddy Somagutta, Sri K.Rathanga Pani Reddy and Sri M.Srikanth, learned counsel appearing for petitioners and learned Government Pleader for Services – I, Sri Murali Lincoln, Sri P.Shree Ram and Sri Kondaveeti Krithi Teja, learned Special Government Pleader, attached to the office of Additional Advocate General, appearing for respondents.

8. (a) Sri M.Srikanth, learned counsel, leading the arguments on behalf of petitioners, strenuously contended that Rule 6 since contemplates equating three years of service in higher cadre (Nursing Tutor Grade-II) with service in lower cadre (Staff

Nurse), virtually creating an irrational classification, which is impermissible is thus manifestly illegal and arbitrary. There is no reasonable nexus or object sought to be achieved in making such an irrational classification.

(b) He further contended that though petitioners have rendered nearly 26 years of service as Staff Nurses before being promoted as Nursing Tutor Grade-II, the impugned rule, by prescribing three years of service in higher category, effectively nullifies their seniority and permits juniors to march ahead of seniors, which is manifestly arbitrary and illegal. Since the impugned rule seeks to create an artificial classification and is manifestly arbitrary and illegal, the same insofar as prescribing minimum of three years of service for further promotion requires to be set aside.

(c) In support of the aforesaid submissions, learned counsel sought to place reliance on the judgment of the Hon'ble Apex Court in **Shakuntala Sharma v. High Court of A.P. at Shimla and another**[1]

9. Mr. K.Rathanga Pani Reddy, learned counsel appearing for some of the petitioners, while supporting the submissions made above, contended that the issue raised in this batch of cases is

[1] (1994) 2 SCC 411

squarely covered and stands answered in view of the judgment of the Hon'ble Apex Court in **Shakuntala Sharma**[1] and reference has been made to paragraphs 9 and 12, and thus urged to allow writ petitions.

10. (a) Mr.Kondaveeti Krithi Teja, learned Special Government Pleader appearing for Respondents 1 to 3, opposing aforesaid submissions, contended that the impugned rules made in exercise of powers conferred under Article 309 of Constitution of India, have statutory force, petitioners with full knowledge of existence of such rules, accepted promotion to post of Nursing Tutor Grade-II, thus, cannot now be aggrieved by prescription of minimum period of service in promotional cadre for being eligible for further promotion to next higher cadre.

(b) He further contended that promotional avenues and service conditions of employees in Nursing Schools and Nursing Colleges are since governed by distinct set of service rules, providing for different hierarchical structures and functional requirements, petitioners cannot conflate the same to suit their career prospects and progression.

(c) It is further contended that prescription of minimum service of three years in feeder category for promotion in terms of Rule 6

is a matter of policy and there lies definite objective underlying the same to ensure that candidates promoted to crucial teaching post of Lecturer in College of Nursing possess not just the requisite academic qualification (M.Sc. Nursing), but also require practical experience in immediate lower cadre. Therefore, the impugned rule can neither said to be creating an irrational classification nor suffer from vice of arbitrariness. Though there was no compulsion for petitioners to accept promotion as Nursing Tutor Grade-II, once having availed the same, they became part of distinct class of employees governed by conditions assigned to said post, thus cannot claim to be discriminated in comparison with employees in lower feeder category (Staff Nurses), who are considered for promotion under different waterfall mechanism envisaged under the Rules.

(d) The learned Government Pleader further drew our attention to paragraph 5 of the counter, which set out various promotional channels, and submitted that persons working as Staff Nurses with B.Sc. Nursing and later acquiring or possessing M.Sc. Nursing have multiple avenues and channels of promotion in various streams, thus, it is not as though petitioners have been completely discriminated against or placed at a disadvantageous position.

11. Sri P.Shree Ram, learned counsel appearing for implead petitioners, while supporting the stand of official respondents, reiterated that promotion from the post of Staff Nurse to Nursing Tutor Grade-II is voluntary and not mandatory, since petitioners, having availed the benefit of promotion, cannot now turn around and claim parity with the lower cadre of Staff Nurses. It is further stated that the moment Staff Nurse gets promoted as Nursing Tutor Grade-II, there is a change of cadre, therefore, any seniority has to be considered only with reference to the service in such cadre. It is also stated that judgment of Hon'ble Apex Court in **Shakuntala Sharma**[1] completely deals with different set of facts, thus, has no application to the case on hand. Thus, he urged for dismissal of writ petitions.

12. We have given anxious consideration to the submissions made by learned counsel for parties and gone through the record.

13. There is not much controversy with regard to facts. Petitioners as well as impleaded respondents admittedly were appointed as Staff Nurses, which is a non-teaching/clinical post in government colleges requiring qualification of Diploma in Nursing. Petitioners also have qualification of M.Sc. Nursing. They were promoted to the post of Nursing Tutor Grade-II in July, 2016, which

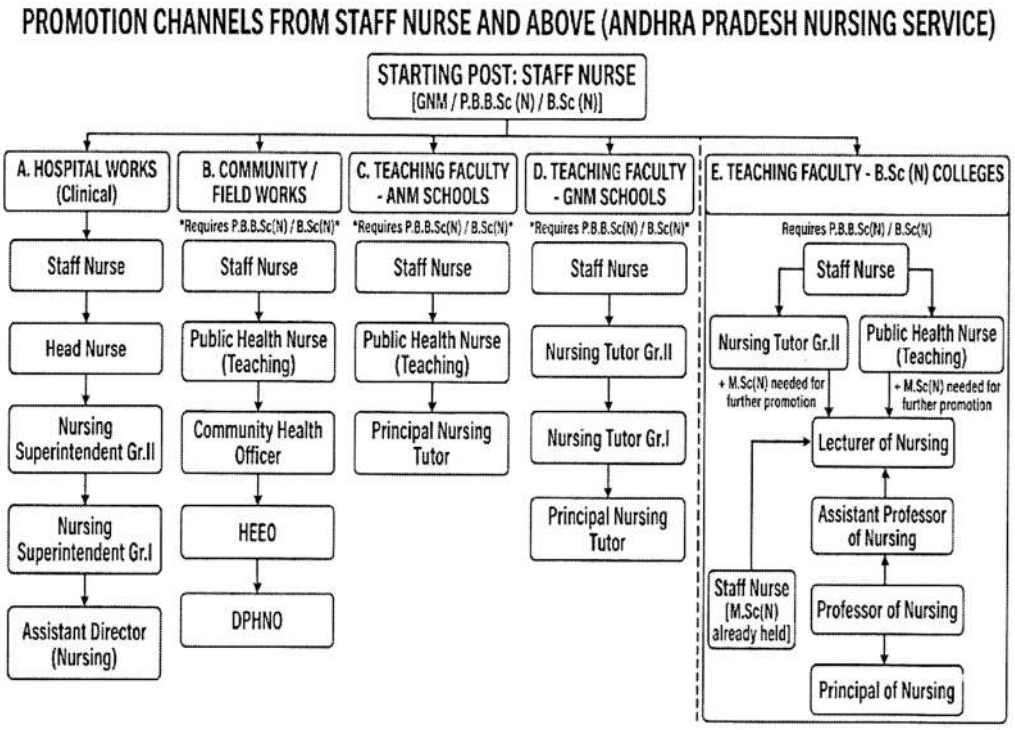
is a teaching post in nursing schools requiring minimum qualification of B.Sc. Nursing. Subsequently, they have been appointed as Lecturers in nursing colleges, which require qualification of M.Sc. Nursing.

14. There are three sets of rules which govern nursing cadres including appointment, qualifications and other conditions of service. G.O. Ms. No.2035, dated 27.09.1965, deals with Special Rules for Branch II Nursing of Andhra Pradesh Medical Subordinate Service. Branch II Nursing consists of six categories, of which Staff Nurses and Nursing Tutors fall under Category 1 and Category 3, respectively. As per Rule 3, Staff Nurses are to be recruited by direct recruitment or promotion from Auxiliary Nurses, Midwives or Maternity Assistants possessing prescribed qualifications. Further, Nursing Tutors are appointed from the category of Head Nurses or promotion from Staff Nurses, if no qualified Head Nurses are available or by Direct Recruitment. Thus, Staff Nurses are one of the feeder categories for being appointed as Nursing Tutors.

15. Then, G.O. Ms. No.466, dated 16.10.1998, by which Andhra Pradesh Medical Education, Health and Family Welfare Nursing Subordinate Service Rules, were promulgated governing other

Nursing Cadres. Under these rules, Nursing Tutor Grade-II is eligible to be appointed as Nursing Tutor Grade-I under Class B of Rule 3, with further promotional avenues in higher cadres referred to therein.

16. The third Nursing Cadre that is envisaged in Andhra Pradesh College of Nursing Service Rules, 1996, deals with appointment of Lecturers through multiple channels, one such being from among qualified Nursing Tutors Grade-II from Subordinate Nursing Services with further promotional avenues specified therein. We had to refer to all aforesaid G.Os. inasmuch as there are three sets of rules governing entry for nursing cadres across different streams. In all, thus, nursing staff will have following avenues of promotion as mentioned in the counter of 2nd respondent.



17. Be that as it may, the rules relevant and under challenge for the present purpose read as under:

Rule 3. Method of Appointment: Appointment to the post mentioned in column (1) of the table below shall be made by the method specified in the corresponding entry in column (2) thereof.

Class & Category	**Method of Appointment**
(1)	**(2)**
Class A	
1. Deputy Director (Nursing)	(i) By promotion from the category of Principal/Professor of Nursing College of Nursing in the Andhra Pradesh Colleges of Nursing Service Rules. (ii) If no suitable candidate is available for appointment by method (i) above, by promotion of the Assistant – Director (Nursing).
2. Assistant Director (Nursing)	By promotion of Nursing Superintendent, Grade - I
3. Nursing Superintendent Grade-II	By promotion of Nursing Superintendent, Grade – II
4. Nursing Superintendent Grade – II	By appointment by transfer of Head Nurses in Andhra Pradesh Medical Education, Health and Family Welfare Nursing Subordinate Service and Public Health Nurses in the Andhra Pradesh Health and Family Welfare Subordinate Service.
Class B	
1. Principal Nursing Tutor	By promotion from Nursing Tutor, Grade – I

2. Nursing Tutor, Grade – I	By promotion by transfer of Nursing Tutor, Grade – II in the Andhra Pradesh Medical Education, Health & Family Welfare Education, Health Nursing Subordinate Service.

Rule – 6. Minimum Service: - No person shall be eligible for appointment by transfer or promotion unless she is an approved probationer and has put in not less than three years of service in the category from which promotion or appointment by transfer is made.

18. Method of appointment envisaged under Rule 3 to the post of Lecturer has multiple channels and streams. There is a clear-cut waterfall arrangement from among various cadres and distinct services. It clearly provides for consideration of specific feeder category in the hierarchy among Nursing Tutor Grade-I, Nursing Tutor Grade-II, Public Health Nurse, and Staff Nurse. However, for all these feeder categories, common prescription is that person seeking appointment by transfer or promotion from particular category should have put in not less than 3 years of service in such category, with only exception for appointment by transfer of Professor of Nursing as Principal and Professor of Nursing, which

is the highest cadre in the services. Learned counsels for petitioners have laid much emphasis on the judgment of the Hon'ble Supreme Court in **Shakuntala Sharma**[1] by referring to the following paragraphs:

> "**9.** The result of the rule was that since the appellant had not put in three years' service as Revisor, she was disentitled to the post of Superintendent. The position further was that on the relevant date, i.e., December 3, 1992, there was no Deputy Superintendent or Revisor with minimum three years' service in the respective posts. Hence the post was given to Respondent 2, as he was Senior Assistant with more than six years' service. The consequence of the rule was that had she continued as Translator, being senior to Respondent 2, she would have got the post of the Superintendent. She lost the same because she was promoted to the post of the Revisor only a few days earlier to the appointment of Respondent 2 to the post of the Superintendent which in effect was a double promotion to him. Since the two events, viz., her promotion to the post of Revisor and that of Respondent 2 to the post of Superintendent were close in proximity, a legitimate contention was advanced on her behalf that she was "kicked up" to the post of the Revisor only to facilitate the promotion of Respondent 2 to the post of the Superintendent and thus to deny her the said post.
>
> **12.** In this case, it is not necessary for us to go into the question whether Rule 11 of 1990 Rules which provided for

the promotion to the post of the Superintendent was valid or not. Even assuming that the validity of the 1990 Rules was not challenged, that fact by itself would not validate the present Rule 10 if it suffers from an inherent infirmity. The basic weakness in the present Rule 10 is that it places two unequal sets of posts on a par with each other and also prescribes qualifying service for the higher post as well. The posts of Deputy Superintendents and Revisors admittedly are posts higher than those of Senior Assistants and Translators respectively. If the incumbents of both the sets of posts are to be made eligible for promotion to the post of Superintendent, no qualifying period of service can be prescribed for the incumbents of the posts of Deputy Superintendents and Revisors. If Senior Assistants and Translators are to be provided with promotional avenue, more posts of Deputy Superintendents and Revisors which are above the posts of Senior Assistants and Translators respectively, should be created, and first the Senior Assistants and Translators have to be promoted to the said posts. In fact, the appellant who was a Translator was first promoted to the post of Revisor. We are informed that no eligible Deputy Superintendent was available for being considered to the post of Superintendent and hence Respondent 2 who was holding the post of Senior Assistant (post below that of Deputy Superintendent) had to be promoted to the said post as he had put in six years' service as required by the said Rule 10. Rule 10 of the 1992 Rules is thus inequitous and indefensibly unjust. It violates Article

14 of the Constitution since it treats unequals as equals and what is more gives unwarranted advantage to the incumbents of the lower posts over the incumbents of the higher posts."

19. By relying on the aforesaid paras, it is contended that prescription of 3 years by impugned rule is inequitous and indefensibly unjust, as it violates Article 14 of Constitution since it treats unequals as equals, besides adding advantage to unofficial respondents who are in lower cadre of Staff Nurse.

20. We are unable to persuade ourselves in accepting the contentions of petitioners for following reasons:

(a) In **Shakuntala Sharma**[1], the Hon'ble Apex Court was considering scenario where there were two hierarchical feeder channels for promotion to the post of Superintendent, one from the channel of Clerk on promotion as Translator, and thereafter Revisioner, and further as Superintendent; and the other channel was initial appointment as Clerk, promotion as Senior Assistant, further promotion to Deputy Superintendent, and thereafter Superintendent.

(b) In that scenario, when combined seniority list was prepared, though employee working as Revisioner was senior to one working

as Senior Assistant, nevertheless, the latter was promoted as Superintendent on the ground that rule therein envisaged minimum 3 years of service in the cadre of Revisioner to be eligible for further promotion as Superintendent.

(c) In the aforesaid facts and circumstances, as it was found that candidate working as Revisioner came to be promoted to the said post just few days before, and that rule prescribed minimum 3 years of service in the said post, such prescription was found to be inequitous and indefensibly unjust, whereas in all these cases, as noticed above, nursing cadre is created under three different services governing different sets of service conditions. Petitioners who have been appointed as Nursing Staff initially were governed by Subordinate Service Rules. They have been provided with multiple avenues of promotions under three different nursing cadres.

21. To be precise, hierarchically, nursing staff can climb up to next higher promotional post at least in five categories, i.e., A) Hospital Works; B) Community/Field Works; C) Teaching Faculty - ANM Schools; D) Teaching Faculty - GNM Schools; E) Teaching Faculty - B.Sc. (N) Colleges. Petitioners in all these cases have all migrated from Subordinate Services to Nursing

College Services by virtue of their appointment as Lecturer, of course, appointment being by transfer.

22. When there are multiple avenues of career prospects and promotions, petitioners, having taken a calculated risk and derived benefit of promotion, merely because candidates junior to them are being placed in better positions compared to petitioners, the same cannot be a valid reason for assailing the impugned rule on the ground of discrimination or classification. The question of reasonableness of classification would arise only if equals are treated unequally, whereas in all these cases, petitioners voluntarily chose to step into another cadre, therefore, question of comparing them now with a lower cadre as equals does not arise.

23. Unlike in all these cases, where there are different sets of rules governing service conditions of Nursing Tutor Grade – II, teaching posts in Nursing Schools and Lecturer in Nursing Colleges with different set of qualifications for appointment, in **Shakuntala Sharma**[1], the Hon'ble Apex Court was dealing with two sets of equivalent hierarchical posts forming part of Himachal Pradesh High Court Officers and Servants (Conditions of Service and Conduct) Rules, 1992.

24. Therefore, in our considered view, given the peculiar facts and circumstances, the ratio laid down in **Shakuntala Sharma**[1] would have no application.

25. In **State of Tamil Nadu v. P.Krishnamurthy**[2]**,** the Hon'ble Apex Court, after adverting to the relevant case law on the subject, laid down the parameters of judicial review of subordinate legislation, held as under:

> "*15*. There is a presumption in favour of constitutionality or validity of a subordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognised that a subordinate legislation can be challenged under any of the following grounds:
>
> (*a*) Lack of legislative competence to make the subordinate legislation.
>
> (*b*) Violation of fundamental rights guaranteed under the Constitution of India.
>
> (*c*) Violation of any provision of the Constitution of India.
>
> (*d*) Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act.
>
> (*e*) Repugnancy to the laws of the land, that is, any enactment.

[2] (2006) 4 SCC 517

(*f*) Manifest arbitrariness/unreasonableness (to an extent where the court might well say that the legislature never intended to give authority to make such rules).

16. The court considering the validity of a subordinate legislation, will have to consider the nature, object and scheme of the enabling Act, and also the area over which power has been delegated under the Act and then decide whether the subordinate legislation conforms to the parent statute. Where a rule is directly inconsistent with a mandatory provision of the statute, then, of course, the task of the court is simple and easy. But where the contention is that the inconsistency or non-conformity of the rule is not with reference to any specific provision of the enabling Act, but with the object and scheme of the parent Act, the court should proceed with caution before declaring invalidity."

26. The above said parameters were once again reiterated by Hon'ble Apex Court in **Cellular Operators Association of India and others v. Telecom Regulatory Authority of India and others**[3].

27. From the above settled position, it is trite law that any subordinate legislation can be challenged only on the above-mentioned grounds. Petitioners, in this case, could not point out

[3] (2016) 7 SCC 703

and bring their cases within the ambit of any of the above-mentioned parameters for invalidating impugned statutory rule. We, therefore, find these writ petitions are devoid of any merit and accordingly, W.P. Nos.20535 and 13392 of 2025, 22694 of 2020 and 155 of 2021 are dismissed. In view of the dismissal of the above writ petitions, W.P. No.50 of 2021, which challenged the integrated seniority list, is also dismissed. No costs.

As a sequel, miscellaneous petitions pending consideration, if any, in this case shall stand closed.

LISA GILL, CJ **CHALLA GUNARANJAN, J**

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