APHC010574042025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3460]**
(Special Original Jurisdiction)

FRIDAY, THE 16th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 29563/2025

Between:

1. P. CH. BAPANNA DORA, S/O MANIKYAM AGED ABOUT 57 YEARS, R/O 3-9/3/4, FF2, M16, SURYA LEELA RESIDENCY, MADHURAWADA, VISAKHAPATNAM

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY IT'S PRINCIPAL SECRETARY (ENDOWMENTS), SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATHI.
2. THE COMMISSIONER, GOLLAPUDI, VIJAYAWADA.
3. THE DEPUTY COMMISSIONER, VISAKHAPATNAM DIVISION, VISAKHAPATNAM.
4. THE DISTRICT ENDOWMENTS OFFICER, VISAKHAPATNAM DISTRICT, VISAKHAPATNAM.
5. KING EDWARD VLL CORONATION, MEMORIAL (KURUPAM) MARKET, MAIN ROAD, KURUPAM, VISAKHAPATNAM. REP. BY IT'S EXECUTIVE OFFICER.
6. THE DISTRICT ENDOWMENTS OFFICER, ANAKAPALLI DISTRICT, ANAKAPALLI.
7. SRI T RAMBABU, S/O NOT KNOWN, AGED ABOUT 56 YEARS, WORKING AS JUNIOR ASSISTANT, SRI ERUKAMAMBA

AMMAVARI TEMPLE, DONDAPARTHI, VISAKHAPATNAM.

8. SRI CH SATYANARAYANA RAO, S/O NOT KNOWN, AGED ABOUT 60 YEARS, WORKING AS JUNIOR ASSISTANT, SEETHARAMA SWAMY TEMPLE, CHENGALRAOPETA, VISAKHAPATNAM.

...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 topleased to issue WRIT OF MANDAMUS or any other appropriate writ, order or direction to DECLARE the Proceedings in Rc. No. E2/COE-15Q21/392/2025-1 dated 24.10.2025 issued by the 2nd respondent in promoting the 7th respondent by transfer of service as Executive Officer, Gr-lll in the Visakhapatnam district instead of me by reckoning my seniority from 18.02.2011 implementing GO. Ms. No. 128 with retrospective effect, as illegal, arbitrary, violative of provisions of AP Charitable and Hindu Religious Institutions and Endowments Act, 1987 and rules made thereunder, that too contrary to the order dated 17.10.2025 passed in WP. No. 28229 of 2025 and violation of the law laid down in order date 23.03.2023 passed in WP. No. 21759/2020 by this Hon'ble Court and contrary to Articles 14, 15, 16 and 19(1)(g) of Constitution of India and Consequently COMMAND the 2nd respondent to promote me as Executive Officer, Gr-lll from Junior Assistant quota in erstwhile Visakhapatnam district, in the interest of justice

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to SUSPEND the operation of the impugned proceedings Rc. No. E2/COE- 15021/392/2025-1 dated 24.10.2025 issued by the 2nd respondent contrary to the order dated 17.10.2025 passed in WP. No. 28229 of 2025, in the interest of justice

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to SUSPEND the operation of the impugned proceedings Rc. No. E2/COE- 15021/392/2025-1 dated 24.10.2025

issued by the 2nd respondent contrary to the order dated 17.10.2025 passed in WP. No. 28229 of 2025, in the interest of justice

IA NO: 3 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to vacate the interim orders passed in I.A.No.1 of 2025 in WP.NO.29563 of 2025, dated 29.10.2025, by dismissing the Writ Petition and pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to vacate the interim orders passed in WP No. 29563 of 2025 dated 29.10.2025 and dismiss the writ petition in the interests of justice.

IA NO: 2 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to modify the interim orders passed in WP No. 29563 of 2025 dated 29.10.2025 by keeping one post of Executive Officer- Grade III in Visakhapatnam District, vacant, pending disposal of the writ petition in the interests of justice and pass

Counsel for the Petitioner:

1. J.V.PHANIDUTH

Counsel for the Respondent(S):

1. GP FOR SERVICES II
2. D V SASIDHAR

The Court made the following:

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION No.29563 of 2025

ORDER:

1. The present Writ Petition is filed questioning the action of Respondent No.2 in issuing proceedings vide Rc.No.E2/COE-15021/392/2025-1, dated 24.10.2025, promoting Respondent No.7 by transfer of service as Executive Officer, Grade-III, in Visakhapatnam District, instead of the Petitioner, without reckoning the seniority of the Petitioner from 18.02.2011, as illegal and arbitrary.

2. The Petitioner was initially appointed as an Attender in Respondent No.5/Institution on 19.09.1984, and his services were regularized with effect from 01.04.1985. Subsequently, Respondent No.5 posted the Petitioner as Record Assistant vide proceedings dated 06.03.1990. Thereafter, pursuant to a resolution of a '3'-member committee, the Petitioner was promoted to the post of Junior Assistant against the existing vacancy on 20.05.2004. While so, Respondent No.2 called for the seniority list of Junior Assistants working in temples/institutions from Respondent No.4.

3. Pursuant thereto, the District Endowments Officer, Visakhapatnam District, vide letter dated 08.09.2023, furnished the list, and in the final seniority list, the Petitioner was placed at Serial No.15,

while the unofficial Respondent Nos.7 and 8 were placed at Serial Nos.16 and 17. Thereafter, the Petitioner submitted a representation seeking appointment by transfer to the post of Executive Officer (Grade-III). As the representation submitted by the Petitioner was not being considered, the Petitioner filed W.P.No.14015 of 2024 before this Court, and the same was disposed of by this Court on 08.07.2024, directing Respondent Nos.2 to 4 therein to consider the representation submitted by the Petitioner. While so, the Respondent No.2 vide impugned proceedings, dated 24.10.2025 promoted the unofficial Respondents as Executive Officer (Grade-III). Aggrieved by the same, the Writ Petition is filed.

4. A counter affidavit is filed by Respondent No.2, wherein the facts urged by the Petitioner are not disputed. It was pleaded that the Petitioner was appointed as Junior Assistant on 20.05.2004 from the post of Record Assistant and that, as per the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Office Holders and Servants Service Rules, 2000 (for short, 'the Rules'), issued vide G.O.Ms.No.888, dated 08.12.2000, there was no channel of promotion from the cadre of Record Assistant to the cadre of Junior Assistant until the amendment was made vide G.O.Ms.No.128, dated 18.02.2011. However, the Petitioner was promoted to the post of

Junior Assistant from the Record Assistant cadre on 20.05.2004. Though the Petitioner was placed at Serial No.15 in the seniority list, as there was no channel of promotion to the cadre of Junior Assistant until the amendment was made vide G.O.Ms.No.128, dated 18.02.2011, the services of the Petitioner were considered with effect from 18.02.2011 only.

5. As regards the reliance placed by the Petitioner on the judgment passed by a Coordinate Bench of this Court in W.P.No.21759 of 2020, it was stated that a Writ Appeal had been filed thereon and the same was pending. Hence, the case of the Petitioner was considered with effect from the date of issuance of G.O.Ms.No.128, dated 18.02.2011.

6. A counter affidavit was also filed by Respondent No.7, wherein it is stated that Respondent No.7 was appointed as an NMR on 12.04.1995 in Ramananda Ashramam, Venkojipalem, Visakhapatnam, and his services were regularized and his scale was extended as Junior Assistant on 01.07.2004. It is further submitted that the appointment of the Petitioner in the year 1985 itself was illegal, as the date of birth of the Petitioner is shown as 15.05.1968 and, as per the rules in vogue for appointment as Record Assistant vide G.O.Ms.No.1478, dated 17.11.1986, a person could be appointed only after successful completion of five years of service. The Petitioner had

completed only four years and nine months of service and, therefore, his promotion as Record Assistant was illegal.

7. It was further submitted that the Petitioner must have passed intermediate qualification to be aponted as Junior Assistant and in the instant case the Petiotioner did not passed the Intermediate qualification and the appointment of the Petitioner to the post of Junior Assistant is illegal therefore the Petitioner is not entitled to be considered for appointment to the post of Executive Officer, Grade-III.

8. Heard M/s. J. V. Phaniduth, learned counsel for the Petitioner as well as Sri D. V. Sasidhar, learned counsel appearing for Respondent No.7, learned Government Pleader for Endowments appearing for Respondent No.2.

9. The only reason for denying the Petitioner appointment to the post of Executive Officer (Grade-III), as per the contentions raised in the counter affidavit filed by Respondent No.2, is that the Petitioner's appointment as Junior Assistant from the cadre of Record Assistant is impermissible, as there was no channel of promotion until the Rules were amended vide G.O.Ms.No.128, dated 18.02.2011. Therefore, the appointment of the Petitioner to the post of Junior Assistant on 20.05.2004 cannot be taken into consideration, and his services as

Junior Assistant would be reckoned only from the date of amendment to the Rules, i.e., 18.02.2011.

10. This issue was specifically considered by a Coordinate Bench of this Court in W.P.No.21759 of 2020, wherein the Coordinate Bench passed a detailed order holding that the promotion of the Petitioner therein as Junior Assistant from the cadre of Record Assistant was to be termed irregular but not illegal. The seniority of the Petitioner should be reckoned from the initial date of appointment as Junior Assistant. Paragraph Nos.15 to 24 of the order dated 23.03.2023 in W.P.No.21759 of 2020 are extracted below:-

> *"15. 1st respondent issued G.O.Ms.No.888, dated 08.12.2000 in exercise of powers conferred under Sec 35(4) read with Sec 153 of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. These rules are called as Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Office Holders and Servant Service Rules, 2000.*
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> *16. Annexure-III to the Rules was prepared in consonance with Rule 39 of the G.O.Ms.No.888, dated 08.12.2000, which prescribes qualification. Category–4 of Annexure–III refers to Junior Assistants. Initially, when G.O.Ms.No.888 was Gazetted, to the post of Junior Assistant method of recruitment prescribed is, (1) by Direct Recruitment and (2) by loan of services of Junior Assistants from Endowments Department.by Issuing G.O.Ms.No. 1159 dated 3-9-2007 transfer from Category-I of Conductor of Class VIII i.e. Transport Branch was included. Later, by G.O.Ms.No.128, dated 18.02.2011 promotion channel was created from Record Assistant to Junior Assistant.*
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> *17. The petitioner, as noted supra, was promoted from Record Assistant to Junior Assistant by proceedings dated 09.02.2004 after G.O.Ms.No.888, dated 08.12.2000 came into operation. By the date of promotion of petitioner, of course, as stated supra, channel of promotion is not provided from Record Assistant to Junior Assistant. It is not the case of the respondent that petitioner mislead the authorities and got promotion. In fact, as indicated*

supra, when the petitioner was promoted to the post of Junior Assistant nothing was indicated in the order that the promotion is temporary and subject to fulfilment of certain conditions.

18. Rule-13 of G.O.Ms.No.888 dated 08.12.2000 deals with Promotion. As per Rule 13, no employee shall be eligible for promotion from a lower category to a higher category unless he has satisfactorily completed the probation and has put in service for a minimum period of three years but in no case it shall not less than two years in the category from which he has to be promoted. The Category, from which one will be promoted as mentioned in Rule 13, was incorporated in Annexure-III.

19. As mentioned supra, by date of promoting petitioner from Record Assistant to Junior Assistant, no promotion channel was provided from Record Assistant to Junior Assistant. However, by issuing G.O.Ms.No.128 dated 18.02.2011 such a channel is created. It is pertinent to mention here that competent authority promoted the petitioner from Record Assistant to Junior Assistant in the year 2004. By the date of promotion petitioner had possessed necessary service, required for promotion, as mandated in Rule 13 of the Rules. Thus, the promotion of the petitioner from the post of Record Assistant to Junior Assistant cannot be termed as illegal. At the most it can be termed as irregular. Later, petitioner further promoted as Senior Assistant and now the petitioner is requesting the authority to reckon the seniority from 2004 for further promotion on transfer. While considering the difference between illegal appointment and irregular appointment, the Hon'ble Apex Court observed as follows:

*20. In State of **M.P. and ors. Vs. Lalit Kumar Verma**[1] after considering the Judgment of Constitution Bench of this Court in the case of **State of Karnataka v. Umadevi**[2] observed thus:*

> *12. The question which, thus, arises for consideration, would be: Is there any distinction between "irregular appointment" and "illegal appointment"? The distinction between the two terms is apparent. In the event the appointment is made in total disregard of the constitutional scheme as also the recruitment rules framed by the employer, which is "State" within the meaning of Article 12 of the Constitution of India, the recruitment would be an illegal one; whereas there may be cases where, although, substantial compliance with the constitutional scheme as also the rules have been made, the appointment may be irregular in the sense that some provisions of*

[1] 2007 (1) SCC 575
[2] (2006) 4 SCC 1

> *some rules might not have been strictly adhered to.*

21. As discussed supra Rule 13 of the Rules adumbrates promotion. Petitioner was promoted as Junior Assistant after completing necessary service in the post of Record Assistant as per Rule 13 of the Rules. Junior Assistant post is a sanctioned post in the temple and the same is vacant on the day of promotion of petitioner. Nothing was mentioned in the order that the promotion that the promotion of petitioner to the post of Junior Assistant from Record Assistant is subject to certain conditions. Thus, since the petitioner got necessary experience to get promotion and competent authority issued orders promoting the petitioner, though channel is not provided on the date of promotion of petitioner, such promotion at the most can be termed as irregular but not illegal.

22. Since this court concludes that promotion of petitioner from record assistant to junior assistant is irregular but not illegal, whether the petitioner service is to be reckoned from the date of actual promotion 28.03.2007 or from 18.02.2014 as refixed?

23. In ***Narender Chadha v. Union of India***[3] *the Hon'ble Apex Court observed as follows:*

> *"The officers were promoted although without following the procedure prescribed under the rules, but they continuously worked for long periods of nearly 15-20 years on the posts without being reverted. The period of their continuous officiation was directed to be counted for seniority as it was held that any other view would be arbitrary and violative of Articles 14 and 16. There is considerable force in this view also. We, therefore, confirm the principle of counting towards seniority the period of continuous officiation following an appointment made in accordance with the rules prescribed for regular substantive appointments in the service."*

24. In the case on hand, petitioner was initially promoted as junior assistant in the year 2004 and later as senior assistant on completion of 3 years in the year 2007. In view of the expression of the Hon'ble Apex Court referred to supra, respondent shall have to reckon the seniority of the petitioner from the date of his promotion as Junior Assistant 09.02.02004 and Senior Assistant in the year 28.03.2007.

[3] (1986) 2 SCC 157

11. In the light of the orders passed by a Coordinate Bench of this Court, it is not open to Respondent No.2 to defer consideration of the case of the Petitioner for promotion on similar lines, notwithstanding the pendency of the Writ Appeal.

12. Coming to the objections raised by Respondent No.7 in the counter affidavit, these are not the objections raised by Respondent No.2 for deferring the promotion of the Petitioner. Even otherwise, the objection raised with respect to the appointment of the Petitioner as Record Assistant prior to the completion of five years, i.e., on completion of four years and nine months, as per the rules contemplated under G.O.Ms.No.1478, dated 17.11.1986, is a trivial objection, and no prejudice is caused on account of the same at this stage, more so, about thirty-five years after the date of appointment. As regards the educational qualifications, the same is not an objection raised by the official Respondents. In view of the above, this Writ Petition is disposed of with the following directions:-

(i) The impugned proceedings issued vide Rc.No.E2/COE-15021/392/2025-1, dated 24.10.2025 are set aside.

(ii) The Respondent-Authorities shall consider the case of the Petitioner for promotion as per his seniority in the cadre of Junior Assistant from the date of his appointment i.e., 20.05.2004.

(iii) No order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

JUSTICE NYAPATHY VIJAY

Date: 16.10.2026
chs

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 29563/2025

Dated: 16.10.2026

chs