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APHC010681532022

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

FRIDAY, THE 16th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No. 40435/2022

BETWEEN:

1. KUMBHA SRINIVASA RAO, S/O SRI K.PEDDA GOPAIAH AGED 51 YEARS, OCC.SENIOR TECHNICAL ASSISTANT O/O.THE ASSISTANT CONTROLLER OF LEGAL METROLOGY BAPATLA, BAPATLA DISTRICT, ANDHRA PRADESH. ...PETITIONER

AND

1. THE STATE OF AP, REP.BY ITS PRINCIPAL SECRETARY CIVIL SUPPLIES DEPARTMENT A.P. SECRETARIAT, VELAGAPUDI AMARAVATI, GUNTUR DISTRICT.
2. THE CONTROLLER, LEGAL METROLOGY DEPARTMENT GOVERNMENT OF ANDHRA PRADESH VIJAYAWADA, KRISHNA DISTRICT.
3. THE JOINT CONTROLLER HQ, LEGAL METROLOGY DEPARTMENT GOVERNMENT OF ANDHRA PRADESH VIJAYAWADA. **...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 an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the Memo No.53/E/2017 dated 29.09.2022 issued by the

2nd respondent by rejecting petitioner's request for promotion to the post of Inspector in Legal metrology Department from the post of Senior Technical Assistant on the ground that I did not possess the required qualification of B.Sc. with physics as one of the subjects as per Rule 28 of the Legal Metrology (General) Rules, 2011, as highly illegal, arbitrary, exercise of power and contrary to law, consequently to set aside the said Memo dt.29-09-2022 and direct the 2nd respondent to promote the petitioner to the post of Inspector from the date of petitioner's eligibility with all consequential benefits without referring to 2011 Rules and pass such other order or orders.

Counsel for the Petitioner:

1. TURAGA SAI SURYA

Counsel for the Respondent(S):

1. GP FOR SERVICES IV

The Court made the following:

ORDER:

The writ petition is filed challenging the Memo No. 53/E/2017 dated 29.09.2022 of the 2nd respondent in rejecting petitioner's representation dated 09.07.2022 for appointment as Inspector Legal Metrology on the ground that the petitioner doesn't possess the requisite qualification i.e., a graduation from a recognized university in Science (with physics as one of the subjects) to hold the post of Inspector Legal Metrology.

2. The petitioner asserts in the affidavit filed in support of the writ petition that the petitioner was appointed as Technical Assistant in the Legal Metrology Department on 23.01.1993 later promoted to the post of Senior Technical Assistant on 12.05.2006 and the petitioner's services were regularized w.e.f. 15.05.2006 in the cadre of Senior Technical Assistant vide proceedings 114/E/2010 dated 25.09.2010 and the probation was declared on 20.05.2007 and he put a total service of 29 years as Technical Assistant and Senior Technical Assistant. The petitioner's request for promotion to Inspector of Legal Metrology was rejected through proceedings dated 29.09.2022, referring to the Rule 28 of Legal Metrology (General) Rules, 2011 (hereinafter referred to as Rules, 2011), which requires candidates seeking promotion to possess a bachelor's degree in Science **(with physics as one of the subjects).** It is further stated that the said

requirement is contrary to the rule that established or framed under The Andhra Pradesh Weights and Measures (Enforcement) Act, 1955 and amended rules as per G.O.Ms. No. 579 dated 11.11.1980 amendment / re-issued in G.O.Ms. No. 673 dated 12.12.1980. According to G.O.Ms.No.579 dated 11.11.1980. the minimum general educational qualification needed is a degree in any discipline from a recognized university and the said rules were framed under Article 309 of the Constitution of India r/w Clause (h) and (s) of sub.section (2) of Section 45 of the Andhra Pradesh Weights and Measures (Enforcement) Act, 1958. The Andhra Pradesh Legal Metrology Subordinate Service Rules 2017 that were framed vide G.O.Ms. No. 13 dated 31.07.2017 is not under Article 309 of the Constitution of India and lack statutory force and the said rules are only a prospective in nature. Hence prayed to set aside the impugned order dated 29.09.2022 and to direct the respondents to promote the petitioner as Inspector Legal Metrology.

3. The 2nd respondent filed counter affidavit reiterating the contents that observed in the rejection order *inter alia* it is asserted that the qualification for the post of Inspector was first issued under The Andhra Pradesh Weights and Measures (Enforcement) Act, 1985. Subsequently the Standards of Weights and Measures Act, 1976 and the Standard of Weights and Measures (Enforcement) Act,

1985 have been repealed and a new Parliament Act in the form of Legal Metrology Act, 2009 has come into force and the effective date that has been notified is 01.04.2011. Under this Act, the Legal Metrology (General) Rules, 2011 have been issued and these rules have come into force on 01.04.2011. As per Rule 28 of Legal Metrology (General) Rules, 2011, the requisite qualification is graduation of a recognized university in science with physics as one of the subjects and Rule 52 of the Legal Metrology Act 2009 empowers the Central Government to prescribe the qualification under sub-rule 52(2) (h) for the post of Legal Metrology Officer, accordingly Rule 28 has been issued prescribing the qualification for the Legal Metrology Officer. Hence, the contention of the petitioner that the above rule was not issued under Article 309 of the Constitution of India and has no force is untenable, as these rules were statutory provisions issued under the provisions of the Constitution of India. It is further asserted that as per Rule 26 of A.P. State and Subordinate Service Rules, 1996, the petitioner has alternative remedy of appeal to the Government against the decision of the Controller, Legal Metrology and without availing the remedy the petitioner approached the Andhra Pradesh High Court with unclean hands. Hence, prayed to dismiss the writ petition.

4. Rule 28 of Legal Metrology (General) Rules, 2011 outlines that:

(1) No person shall be appointed as Legal Metrology Officer unless he—

(a) **Is a graduate of a recognized university in Science (with physics as one of the subjects), technology or engineering or holds a recognized diploma in engineering with three years professional experience**; and

(b) Is able to speak, read and write at least one of the regional languages of the State.

(2) Nothing in sub-rule (i) shall apply to persons who have been working as Legal Metrology officer are eligible for promotion as Legal Metrology Officer before the commencement of these rules.

(3) The person appointed to the post of Legal Metrology Officer shall have to successfully complete the basic training course at the Indian Institute of Legal Metrology, Ranchibefore posting.

(4) The Central Government may, in consideration of the practical difficulty faced by the State Government and on its recommendation, relax the qualification for the legal metrology officers for that State.

5. The Andhra Pradesh Weights and Measures (Enforcement) Act, 1958 - rules, for the post of Inspectors of Weights and Measures that issued under G.O.Ms. No. 579 dated 11.11.1980 and G.O.Ms. No 673 dated 12.12.1980 for promotion by transfer recognises that a bachelors degree from a recognised University, relevant portion of the G.O. is extracted hereunder :

(b) By promotion of upper division clerks of the Weights and Measurement Department in the A.P. Ministerial Service or from any other service.	A degree of a recognised university in India Established or incorporates by or under a Central Act or a Provincial Act or a State Act or any other Institution recognised by the University Grants Commission or any other equivalents qualification.

6. The petitioner's counsel argues that the Legal Metrology (General) Rules, 2011 do not necessitate a degree from **a recognized university in Science (with physics as one of the subjects)** and The Andhra Pradesh Legal Metrology Subordinate Service Rules, 2017 that were framed vide G.O.Ms. No. 13 dated 31.07.2017 cannot be made applicable retrospectively and the rules that framed under G.O.Ms.No.579 dated 11.11.1980 and G.O.Ms. No. 673 dated 12.12.1980 specifies that a bachelors degree from a recognised university is sufficient and the petitioner possesses such degree and therefore voiced that the impugned order dated 29.09.2022 of the 2nd respondent is legally unsustainable.

7. According to the argument of petitioner's counsel no doubt that it is well settled law that every statute or statutory rule is prospective unless it is expressly or by necessary implication made to have retrospective effect. Unless there are words in the statue or in the rule showing the intention to affect the existing rights, the rule must be held to be prospective." See the judgment of the Apex Court in ***P.Mahendran vs State Of Karnataka*** reported in **1990(1) SCC 411.**

8. Promotion can be considered when the promotional post falls vacant due to the retirement of the incumbent in promotional post. Both the affidavit filed in support of the writ petition and the counter are silent as to when the promotional post fell vacant. No doubt, that the rule must be held to be prospective. Ergo the question that arises for consideration is whether the promotional post fell vacant prior or subsequent to the rules made under G.O.Ms. No. 13 dated 31.07.2017. If the post fell vacant prior to the introduction of these rules, a graduation degree in Science from a recognized university is not necessary, and Rule 28 of the Legal Metrology (General) Rules, 2011, is not applicable

9. Therefore, the present writ petition is disposed of with a direction to the respondents to consider the case of the petitioner for promotion if the post fell vacant prior to the rules made under G.O.Ms. No. 13 dated 31.07.2017. No order as to costs.

As a sequel, interlocutory applications, if any, pending in this writ petition shall stand closed.

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JUSTICE TARLADA RAJASEKHAR RAO

Date: 16.10.2026

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THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

W.P.No. 40435 OF 2022

Date: 16-10-2026

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