



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

[3529]

WEDNESDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

**WRIT PETITION Nos: 4493 of 2016, 38747 of 2015, 14864 of 2017 &
3629 of 2021**

WRIT PETITION NO: 4493 of 2016

Between:

- 1.K.V.L.NARASIMHA RAO,, S/O. LATE K.SEETARAMA SWAMY
AGE:52 YEARS, ASST.EXECUTIVE ENGINEER(R&B), SECTION-
II S.KOTA-II, SUB-DIVISION, VIZIANAGARAM-535145.
- 2.P.SRINIVASA RAO,, SRI P.B.KALIDAS AGE:52 YEARS,
ASST.EXECUTIVE ENGINEER(R&B) SPECIAL SECTION-I,
SPECIAL SUB-DIVISION SRIKAKULAM-532001.
- 3.RSN MURTHY,, S/O. SRI R.SATYAMURTHY AGE: 55YEARS,
ASST.EXECUTIVE ENGINEER(R&B) NARSIPATNAM SECTION,
VISAKHAPATNAM DIST.
- 4.K.S.PRABHU,, S/O. LATE K.DHRAMA RAO, AGE:48 YEARS,
ASST. EXECUTIVE ENGINEER(R&B) VISAKHAPATNAM
SECTION, VISAKHAPATNAM SUB-DIVISION VISAKHAPATNAM
DIST.
- 5.N.NARASIMHA MURTHY,, S/O. SRI N.PAVANA MURTHY AGE:48
YEARS, ASST.EXECUTIVE ENGINEER(R&B) CHODAVARAM
SECTION, CHODAVARAM VISAKHAPATNAM DIST.
- 6.D.APPA RAO,, S/O. LATE D.NARAYANA MURTHY AGE:55
YEARS, ASST.EXECUTIVE ENGINEER(R&B) BUILDINGS SUB-
DIVISION, VISAKHAPATNAM VISAK

HAPATNAM DIST.

7. CH.V.K.LAKSHMI KOWSALYA,, D/O. CH.VENKATESHWAR RAO, AGE:45 YEARS, DEPUTY EXECUTIVE ENGINEER (R&B), DIVISION-III, D&P WING, O/O. ENGINEER-IN-CHIEF (R&B), ERRUMMANZIL, HYDERABAD.
8. S.VENUGOPALA RAO,, S/O.VAMANA RAO, AGE:50 YEARS, DEPUTY EXECUTIVE ENGINEER (R&B), NARSIPATNAM, VISAKHAPATNAM DISTRICT.
9. T.SRINIVAS RAO,, S/O.SANYASI RAO, AGE:49 YEARS, DEPUTY EXECUTIVE ENGINEER (R&B), O/O.RIMS, BALAGA, SRIKAKULAM.

...PETITIONER(S)

AND

1. M GANESHWARA RAO, S/O. NAGOOR, AGE: 41 YEARS, A.E. R&B, MOGALTUR, SC, WEST GODAVARI DIST. R/O.5-2A; PEDAPETA, VEERAVASARAN MANDAL, WEST GODAVARI DISTRICT
2. K RAMASWAMY, S/O.SUNDER RAO, AGE: 39 YEARS, A.E., R&B, RUDRAPAKA, KRISHNA DISTRICT, R/O.H.NO.10-69, RAVINDRA NAGAR, KRISHNA DISTRICT.
3. B V RAMANAYYA, S/O. B.SUNDARAIAH, AGE:47 YEARS, A.E., R&B, O/O DEPUTY EXECUTIVE ENGINEER, Q.C.SUB DIVISION NELLORE, SPSR NELLORE DISTRICT.
4. K V RANGAIAH, PITCHAIAH, AGE:46, A.E., R&B, O/O DEPUTY EXECUTIVE ENGINEER, SUB DIVISION GIDDALURU, PRAKASHAM DISTRICT.
5. AMANULLA SAHEB, S/O. ZILANI BASHA, AGE:39 YEARS, A.E, R&B, O/O DEPUTY EXECUTIVE ENGINEER, SUB DIVISION ATMAKUR, SPSR NELLORE DISTRICT.
6. P V BHASKAR RAO, S/O. DAMODAR RAO, AGE:47 YEARS, A.E., R&B, O/O D.E.E., SUB DIVISION KANKIPADU, VIJAYAWADA, KRISHNA DISTRICT.

7. J SESHU BABU, S/O.J.SUBBA RAO, AGE:46 YEARS, A.E., R&B, O/O. CHIEF ENGINEER, R&B & MDAPRDC, HYDERABAD
8. GOVERNMENT OF ANDHRA PRADESH, REP., BY ITS PRINCIPLE SECRETARY, ROADS AND BUILDINGS DEPARTMENT, SECRETARIAT, HYDERABAD.
9. N SEKHAR, S/O.N.VENKATASWAMY, AGE: 47 YEARS, WORKING AS A.E.E. O/O.ENC (R&B) NH & ADMN., ERRAMANZIL, HYDERABAD, R/O.F.NO.509, SAIRAM SRINIDHI GARDENS, SANGEETH NAGAR, KUKATPALLY, HYDERABAD.
- 10.P MEERA ANUSHA, D/O.P.ESWARA RAO, AGE 41 YEARS, WORKING AS A.E.E. O/O.ENC, NH & ADMN., ERRAMANZIL, HYDERABAD, R/O.H.NO.8-7-113/10, NAGIREDDY COLONY, R.R.NAGAR, OLD BOWENPALLY, SECUNDERABAD
- 11.A RAMAN KUMAR, S/O.A.KUMARASWAMY, AGE 45 YEARS, WORKING AS A.E.E. O/O.ENC (R&B) CITY ROAD DIVSN, ERRAMANZIL, HYDERABAD. R/O.F.NO.F2, JAGINI ENCLAVE, MATHA LAKSHMI NAGAR, GADDIANNARAM, DILSUKHNAGAR, HYDERABAD.
- 12.U NARSIMULU, S/O.U.NARASAPPA, AGE 45 YEARS, WORKING AS A.E.E. O/O.ENC (R&B) NARASAPUR SECTION, SANGA REDDY DIVISION, ERRAMANZIL, HYD. R/O.F.NO.201, POOJA RESIDENCY, S.R.NAGAR, HYDERABAD.
- 13.I V PRIYAKUMAR, S/O.I.SREENIVASULU, AGED: 44 YEARS, WORKING AS A.E.E., O/O.ENC (R&B), ERRAMANZIL, HYDERABAD. R/O.F.NO.204, ANAND VILLA, 6-3-609/107, ANAND NAGAR, KHAIRATABAD, HYDERABAD.
- 14.THE STATE OF TELANGANA, REP., BY ITS PRINCIPLE SECRETARY, TRANSPORT, ROADS AND BUILDINGS DEPARTMENT, SECRETARIAT, HYDERABAD.
- 15.THE ENGINEERINCHIEF, GOVERNMENT OF ANDHRA PRADESH ROADS AND BUILDINGS DEPARTMENT, EN-UMMANZIL, HYDERABAD.
- 16.THE ENGINEERINCHIEF, GOVERNMENT OF TELANGANA, ROADS AND BUILDINGS DEPARTMENT, ERRUMMANZIL,

HYDERABAD.

...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 Certiorari calling for the records relating to O.A.No:6756/2009 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad and quash the orders dt.17.8.2015 in O.A.No.6756/2009

IA NO: 1 OF 2016(WPMP 2837 OF 2016)

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 to grant leave to the petitioners herein to file the above writ petition challenging the orders dt.17.8.2015 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad in O.A.No.6756/2009

IA NO: 2 OF 2016(WPMP 2838 OF 2016)

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 to dispense with the filing of Certified copy of the orders dt.17.8.2015 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad in O.A.No.6756/2009

IA NO: 3 OF 2016(WPMP 2839 OF 2016)

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 to permit the petitioners to implead the State of Telangana, Engineer-in-Chief, Government of Andhra Pradesh and Engineer-in-Chief, Government of Telangana as respondent No.14, 15 & 16 in the above writ petition

IA NO: 7 OF 2016(WPMP 5753 OF 2016)

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 to stay all further proceedings in pursuance of Circular Memo No.3939/Ser-I(3)/2015, dt.19-12-2015 by suspending the impugned order

dt.17.8.2015 in OA No.6756/2009 by the Andhra Pradesh Administrative Tribunal, Hyderabad, pending disposal of the above writ petition

IA NO: 1 OF 2023

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 to receive the Government Order and Proceedings annexed to this IA as documents in WP No. 4493/2016 and pass

Counsel for the Petitioner(S):

1.SODUM ANVESH

Counsel for the Respondent(S):

1.K RAMAMOCHAN

2.ADDL ADVOCATE GENERAL II

3.J SUDHEER

4.P BALA KRISHNA MURTHY

Date of Reserve :16.03.2026

Date of Pronouncement :01.04.2026

Date of Upload :01.04.2026

The Court made the following Common Order:

(per Hon'ble Sri Justice R. Raghunandan Rao)

As the issues raised in all these Writ Petitions are common, they are being disposed of by way of this Common Order.

2. The primary dispute in these Writ Petitions is on the question of promotions to the post of Deputy Executive Engineer, under the Andhra Pradesh Roads and Buildings Engineering Service Rules, from the feeder categories of Assistant Executive Engineers, Assistant Engineers and Draughtsmen.

3. The Andhra Pradesh Roads & Buildings Engineering Service Rules, were brought into force, under G.O.Ms.No.103, dated 22.05.1996, on being published in the Andhra Pradesh Gazette, on 17.08.1996. Rule 2 of these Rules sets out the various categories of posts, falling within these Rules. Rule 3 provides for the method of appointment and appointing Authorities of these categories of posts. The relevant posts, for the purpose of these promotions are Deputy Executive Engineer, which is category (5) of Class A in Rule 2, Assistant Executive Engineer, which is category (6) in Clause A of Rule 2. Apart from this, the posts of Assistant Engineers, Draughtsman Special Grade and Draughtsman Grade I, under the Andhra Pradesh Roads & Buildings Engineering Subordinate Services are also relevant.

4. The method of appointment, for Deputy Executive Engineer, which is the present controversy, reads as follows:

5. Dy. Executive Engineers

(i) By promotion from category (6)

(ii) By appointment by transfer of Asst. Engineers in A.P. Roads and Buildings Engineering Subordinate Service:

(iii) By appointment by transfer of D'Man Special Grade and D'Man Grade I from a combined seniority list with reference to the date of their appointment to the category of D'Man, Grade I.

5. Category (6) mentioned in Clause – 1 is the post of Assistant Executive Engineer. This post is filled up in the following manner:

6. Assistant Executive Engineers

(i) By direct recruitment;

(ii) By appointment by transfer of Asst. Engineer/D'Man, Spl. Grade/D'Man, Grade I who have acquired a degree in Civil Engineering or Mechanical Engineering from a combined seniority list with reference to the date of their appointment to the category of D'Man, Grade I.

6. The Assistant Engineers mentioned in Clause 2 of Rule 3 (5) are Assistant Engineers appointed, under the Andhra Pradesh Roads & Buildings Engineering Subordinate Services. The education qualification for the post of Assistant Engineer is a Diploma. They are appointed either by direct recruitment or by promotion from the lower categories of posts, in the Andhra

Pradesh Roads & Buildings Engineering Subordinate Services. Similarly, the posts of Draughtsman Special Category and Draughtsman Grade 1 are the posts within the ambit of the Andhra Pradesh Roads & Buildings Engineering Subordinate Services. The post of Deputy Executive Engineer is filled either by way of promotion to the post of Assistant Executive Engineer; by promotion by way of transfer of Assistant Engineers under the Engineering Subordinate Service Rules or by transfer of Draughtsman Special Grade and Draughtsman Grade I, again from the Andhra Pradesh Roads & Buildings Engineering Subordinate Service.

7. As there are three feeder categories, to the post of Deputy Executive Engineer, a scheme was framed by way of the Service Rules, under G.O.Ms.No.103. This scheme was brought in by way of a Note. Under this Note, a 24-point roster was established. Under this roster, every 4th vacancy, except the 20th vacancy was reserved for Assistant Engineers from the Subordinate Services. The 20th vacancy was reserved for the Draughtsmen falling in Class 3, of entry No. 5, in the table, in Rule 3. All other vacancies are filled by Assistant Executive Engineers falling within Class 1, of entry 5, in the table, in Rule 3.

8. Initially, the categories of Assistant Executive Engineers, Assistant Engineers and Draughtsman were taken as three silos, whereunder persons falling, under these categories were being promoted to the post of Deputy Executive Engineer, in accordance with the roster set out under Note

– 1, as per their seniority, within their categories. At that stage, the Assistant Executive Engineers made representations to the Government, contending that, their promotional avenues were being cut down by the roster system. One of the primary issues raised by the Executive Engineers was that, the Assistant Engineers, who were Juniors to them, in terms of the date of joining of service were being promoted ahead of them and the same was affecting their promotional avenues. It also appears that, another issue raised by the Assistant Executive Engineers was that, Assistant Engineers, who were diploma holders were being posted above the Assistant Executive Engineers who were degree holders and that, they were being subordinated to persons from the subordinate services, who were their juniors, though they have been directly recruited under the Engineering Service Rules.

9. The Government, after considering the said representation, issued G.O.Ms.No.82, dated 25.02.2009. By virtue of this G.O., two provisos were added to Note – 1, the said provisos read as follows:

“[Provided also that in no case shall an Assistant Engineer supersede an Assistant Executive Engineer merely on the basis of the ratio contemplated in the cycle for appointment by transfer to the position of Deputy Executive Engineer and the date of appointment in the respective category shall be the criterion;

Provided also that if an Assistant Engineer who loses his chance of consideration in the Cycle in view of the above proviso and if his date of appointment precedes the date of appointment of an Assistant Executive Engineer subsequent thereto in the cycle, the case of such Assistant Engineer shall be considered for promotion against the point of such Assistant Executive Engineer without making

him wait for the next point in the cycle OR rescheduling the cycle].

[Subs. by G.O.Ms.No.82, Transport, Roads & Buildings (S.II), Dt. 25-02-2009]"

10. The said provisos added by G.O.Ms.No.82, came to be challenged by the Assistant Engineers, in O.A.No.6756 of 2009, before the Andhra Pradesh Administrative Tribunal. This application came to be dismissed, on 28.03.2013. Aggrieved by the same, the petitioners in this application, moved the erstwhile High Court of Andhra Pradesh, by way of W.P.Nos.11390 & 28985 of 2014. The erstwhile High Court of Andhra Pradesh, set aside the order of the Andhra Pradesh Administrative Tribunal and remanded the matters back to the Andhra Pradesh Administrative Tribunal, for fresh disposal. The Tribunal, after hearing the parties to the application, allowed the same by way of an Order, dated 17.08.2015, setting aside G.O.Ms.No.82. The Assistant Executive Engineers, aggrieved by this order, have approached this Court, by way of the present writ petitions. The erstwhile High Court, declined to stay the operation of the Order of the Tribunal. Thereafter, the Government, in compliance with the Orders of the Tribunal, issued G.O.Ms.No.67, dated 21.12.2018, deleting the aforesaid provisos. This deletion was challenged by way of W.P.No.3629 of 2021.

11. The Tribunal, had held that, the Rules, having provided for separate feeder categories, to the post of Deputy Executive Engineer, could not have super imposed, additional conditions relating to the date of joining in service and relating to the qualification of the persons, falling in these feeder

categories. The Tribunal had also held that, the birth mark of the education of the persons in these categories cannot be the basis for discriminating against the Assistant Engineers.

12. Sri P. Veera Reddy, the learned Senior Counsel appearing for the petitioners as well as Sri M. Vijaya Kumar, the learned Senior Counsel appearing for the petitioners in these Writ Petitions, contend that, the said order of the Tribunal suffers from patent mistakes of law and facts and requires to be set aside. The learned Senior Counsel would contend that the Assistant Engineers, who had been appointed after a considerable period, after the appointment of the Assistant Executive Engineers are being promoted over and above the Assistant Executive Engineers. It is contended that, the disputed provisos sought to address this issue, by introducing a system of seniority. It is also contended that the provisos merely ensure that persons appointed at an earlier point of time are not deprived of their seniority and the interest of the Assistant Engineers are also protected in as much as the second proviso, under dispute, alleviates any hardship faced by the Assistant Engineers, on account of the Assistant Executive Engineers being placed in the roster point available for the Assistant Engineers. It is further contended that a look at the statistics, in relation to the promotions carried out in these feeder categories, would show that a large number of Assistant Engineers, who were Juniors, in terms of service, to the Assistant Executive Engineers had been promoted over and above such Assistant Executive Engineers, who were seniors to the Assistant Engineers.

13. Sri P. Veera Reddy, the learned Senior Counsel would also contend that, though the prayer, in the application, was for striking down the provisos, the Administrative Tribunal went beyond the prayer and struck down the entire G.O. and the same is not permissible.

14. Sri K. G. Krishna Murthy, the learned Senior Counsel appearing for the respondents – Assistant Engineers, Sri E. Sambasiva Pratap, the learned Additional Advocate General appearing on behalf of the official respondents and Sri T. Koteswara Rao, the learned counsel appearing for some of the respondents, in W.P.No.14864 of 2017, support the Orders of the Tribunal.

15. It is contended by them that the Government having created separate feeder categories for promotion to the post of Deputy Executive Engineers, cannot superimpose an additional condition of Seniority. It is also contended that creating feeder categories and superimposing the condition of seniority is clearly impermissible as such a condition has no nexus to the qualification, under the feeder categories. It is further contended that the question of education cannot be brought in as a condition for discriminating between Assistant Executive Engineers on the one hand and the Assistant Engineers and Draughtsmen, on the other hand. On facts, the learned counsel appearing for the respondents, would contend that, it is the Assistant Engineers and Draughtsman, who are deprived of their promotional avenues,

on account of Note – 1 and the contention of the learned Senior Counsel appearing for the petitioners that their chances were taken away is incorrect.

Consideration of the Court:

16. The scheme of promotion, before the impugned amendments, under G.O.Ms.No.82, provided for the merger of three feeder categories, into the post of Deputy Executive Engineer. The method such merger, was set out in the 24 point roster, set up in Note-I to Rule 3. Under this roster, the 5th, 8th, 12th, 16th and 24th posts were reserved for Assistant Engineers. The 20th vacancy was reserved for Draughtsmen and the remaining 18 vacancies were reserved for Assistant Executive Engineers. Under this system, the inter-se seniority between these three feeder categories was not relevant. Promotions were to be effected, basing upon the available vacancy and the seniority within the feeder category alone.

17. The Assistant Executive Engineers contend that the Assistant Engineers, who are lesser qualified are being promoted above Assistant Executive Engineers solely on account of their seniority within their feeder category and without looking at the overall seniority. The Assistant Executive Engineers contend that by virtue of this method, the Assistant Engineers, who are appointed later are being promoted over Assistant Executive Engineers who had appointed service at an earlier point of time. It is contended that this method has effectively cut down the chances of promotion for Assistant Executive Engineers. On the other hand, the Assistant Engineers

contend that the roster system, though skewed against the Assistant Engineers was still acceptable as it gave some promotional avenue to the Assistant Engineers. It is further contended that once the system of roster points was established, there cannot be a further condition that seniority should also be taken into account, inasmuch as such a condition would be arbitrary and discriminatory to the Assistant Engineers. This contention of Assistant Engineers was accepted by the Andhra Pradesh Administrative Tribunal.

18. Sri M. Vijay Kumar, learned Senior Counsel appearing for the Assistant Executive Engineers relies upon the judgment of the Hon'ble Supreme Court in the case of **The State of Jammu & Kashmir vs. Shri Triloki Nath Khosa and Ors.**,¹ to contend that the additional stipulation of seniority cannot be set aside unless it is shown that such stipulation is arbitrary or absurd. He would further rely on this judgment to contend that education qualification can be a rational criterion for creating classification. The principle laid down in the said judgment is binding on this Court. However, the judgment may not be relevant for the present case as the question before this Court is whether an additional condition of seniority, can be imposed on the 24 point roster system.

19. Sri K.G. Krishna Murthy, the learned Senior Counsel appearing for the Assistant Engineers relied upon the judgment of Hon'ble Supreme

¹ (1974) 1 SCC Page 19

Court in the case of **K. Narayan and Ors., vs. State of Karnataka and Ors²**.

In this Judgment, the Hon'ble Supreme Court had held that any rule, in relation to service law, can be tested on the anvil of reasonableness.

20. Though, the State is at liberty to stipulate the conditions of promotion, it is incumbent on the State to stipulate fair and equitable conditions, which would not amount to discrimination against one category of employees. As these three separate feeder categories have to be merged, at the stage of promotion to the post of Deputy Executive Engineer, the method of roster points cannot be faulted. However, once the State has fixed the method of roster points as the method of promotion, further imposition of seniority would detract from the roster point system.

21. Under the above system, the senior most Assistant Engineer who would be eligible to be accommodated in the slot reserved for Assistant Engineer, may not be promoted till all the Assistant Executive Engineers who had joined service earlier are accommodated. In this process, the Assistant Engineer may not be accommodated in the entire 24 point roster. Thus, all the five slots available to Assistant Engineers may be filled up by Assistant Executive Engineers only. Thereafter, the new roster would start and the five posts, which would otherwise be available to Assistant Engineers, within the same roster would get extinguished and a fresh roster would start. In this manner, all five posts, would be lost by the Assistant Engineers. This is

² 1994 Supp(1) SCC page 44

because, there is no system of carry forward of vacancies from one roster to another roster. It would be wholly arbitrary, to impose such a condition, which would take away the promotional chances of a feeder category to satisfy another feeder category. The Administrative Tribunal, had set aside the conditions stipulated above, in G.O.Ms.No.82, for this very reason. We are in agreement with the view of the Tribunal on this count. Consequently, it would have to be held that the said stipulations are clearly arbitrary and discriminate against the Assistant Engineers without any rational nexus to the system of promotion

22. In the circumstances, these Writ Petitions are dismissed. There shall be no order as to costs.

As a sequel, pending Miscellaneous applications, if any, shall stand closed.

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J
RJS

THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO
&
THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

**WRIT PETITION Nos: 4493 of 2016, 38747 of 2015, 14864 of 2017 &
3629 of 2021**

(per Hon'ble Sri Justice R.Raghunandan Rao)

.04.2026

RJS