

HIGH COURT OF ANDHRA PRADESH

* * * *

W.P.NO.17408 of 2026

DATE OF JUDGMENT PRONOUNCED: **15.07.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE NYAPATHY VIJAY,J

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

NYAPATHY VIJAY,J

***THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY**

+ W.P.No.17408 of 2026

% 15.07.2026

Between:

B Malathi, W/O Hemanth Kumar, Aged 40 Years,
Occ. Deputy Tahsildar, Iragavaram, R/O. Mandapaka Post,
Tanuku Mandal, West Godavari District.

...Petitioner

And

The State of Andhra Pradesh, rep. by its Secretary,
Government of Andhra Pradesh, Revenue Department,
Secretariat, Velagapudi and 4 others.

...RESPONDENT(S)

Counsel for the Petitioner : Sri Manoj Kumar Bethapudi

Counsel for the Respondent(S): G.P. for Services -I

< Gist :

> Head Note:

? Cases Referred:

¹ (1979) 2 SCC 150

² (2024) 7 SCC 103

³ 2009 (6) ALD 636 (DB)

⁴ (2007(5) SCC 425)

⁵ (1991) 4 SCC 109

⁶ (2009(16) SCC 329

⁷ (1998 (9) SCC 261)

⁸ (2011 (14) SCC 235)

⁹ 2022(5) SCC 634

¹⁰ 1995 Supp (2) SCC 83

¹¹ 1993 Supp (3) SCC 491

¹² 2011 (3) CTC 129

Date of reserved for orders :
 Date of pronouncement :
 Date of uploading :

APHC010327962026



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

[3460]

WEDNESDAY, THE 15th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 17408/2026

Between:

1.B MALATHI, W/O HEMANTH KUMAR, AGED 40 YEARS, OCC.
 DEPUTY TAHSILDAR, IRAGAVARAM, R/O. MANDAPAKA POST,
 TANUKU MANDAL WEST GODAVARI DISTRICT - 534218

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS SECRETARY,
 GOVERNMENT OF ANDHRA PRADESH, REVENUE
 DEPARTMENT, SECRETARIAT, VELAGAPUDI - 522238.

2.THE CHIEF COMMISSIONER OF LAND ADMINISTRATION,
 D.NO.189, 2ND FLOOR HIMAGNA TOWERS, N.T.R. MAARG, LIC
 COLONY, B-BLOCK, GOLLAPUDI, ANDHRA PRADESH 521225.

3.THE DISTRICT COLLECTOR, COLLECTORATE, MARUTHI
 NAGAR BHIMAVARAM, WEST GODAVARI DISTRICT - 534244

4.K RAJ KUMAR, TAHSILDAR, ALLOTTED TO WEST GODAVARI
 DISTRICT. C/O. THE CHIEF COMMISSIONER OF LAND
 ADMINISTRATION, D.NO.189, 2ND FLOOR HIMAGNA TOWERS,
 N.T.R. MAARG, LIC COLONY, B-BLOCK, GOLLAPUDI, ANDHRA
 PRADESH 521225

5.V SAI MAHESH BABU, TAHSILDAR, ALLOTTED TO KAKINADA
 DISTRICT C/O. THE CHIEF COMMISSIONER OF LAND
 ADMINISTRATION, D.NO.189, 2ND FLOOR HIMAGNA TOWERS,
 N.T.R. MAARG, LIC COLONY, B-BLOCK, GOLLAPUDI, ANDHRA

PRADESH 521225

...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 an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the Respondent No.2 in deferring the case of the petitioner for promotion to the post of Tahsiidar on the ground of minor punishment of minor censure as illegal, arbitrary and violative of Articles-14,16 and 21 of the Constitution of India and consequently direct the Respondent No.2 to consider the case of the petitioner for promotion to the post of Tahsildar without reference to the minor punishment of minor censure with effect the date on which her juniors was promoted, 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 to directs the Respondent No.2 to consider the case of the petitioner for promotion to the post of Tahsildar without reference to the minor punishment of "minor censure", and pass

Counsel for the Petitioner:

1.MANOJ KUMAR BETHAPUDI

Counsel for the Respondent(S):

1.GP FOR SERVICES I

The Court made the following:

Whether the order is :

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No

HON'BLE SRI JUSTICE NYAPATHY VIJAY**WRIT PETITION No.17408 of 2026****ORDER :**

This Writ Petition is filed questioning the action of Respondent No.2 in differing the case of the Petitioner for promotion to the post of Tahsildar on account of 'punishment of minor censure' as illegal and arbitrary.

2. Petitioner was initially appointed as Junior Assistant in the year 2005 on compassionate grounds. Subsequently, Petitioner was promoted as Senior Assistant in the year 2010 and as Deputy Tahsildar in the year 2018. Now Petitioner is due for promotion to the post of Tahsildar. A final integrated seniority list of Deputy Tahsildars came to be issued on 31.05.2026 and the Petitioner was placed at Sl.No.238. A DPC was held on 04.06.2026 and candidates upto Sl.No.234 in the seniority list were considered for promotion. While so, after issuance of integrated seniority list, a show cause notice was issued by Respondent No.3 on 01.06.2026 to show cause as to why disciplinary action should not be initiated against her with regard to a complaint said to have been made by Sri D.Prabhakar Rao. Petitioner submitted her explanation stating that

she had worked in the Office of Tahsildar, Iragavaram till 28.02.2026 and later was deputed to the Office of R.D.O.Tadepalligudem.

3. It is stated that the complainant made an RTI application on 03.01.2026 requesting copy of revenue records pertaining to the RCM Church located in Sy.No.61/3, Kathuvapadu Village. After receiving the said application, the same was put up before the Village Revenue Officer (DRO). The complainant was approaching her for two or three days and seeking the status of the action taken and even when the complainant had raised voice, the Petitioner had replied with all courtesy and never talked in a rude manner. Taking note of the submissions, Respondent No.3 vide impugned proceedings imposed a penalty of minor censure stating that the complainant said to have informed that the Petitioner stated “meeku cheppala”, which was perceived to be disrespectful to the complainant as he was aged 77 years. Questioning the order of minor penalty, Petitioner appealed before Respondent No.2 and further prayed to consider her case for promotion without reference to the punishment.

4. It was further stated that Respondent No.2 vide proceedings dated 24.06.2026 had considered the cases of Deputy Tahsildars and promoted 16 persons junior to the Petitioner including 4

candidates under SC category, who were shown from SI.No.239 onwards in the seniority list. It was in that context, the Petitioner was informed that in view of the penalty of censure, the Petitioner was not considered for promotion.

5. In the present writ petition, Petitioner claims for consideration of promotion on the premise that 'penalty of censure' cannot have a bearing on the promotion of the Petitioner. Judgments of Full Bench of Madras High Court, which was followed by Coordinate Benches of this Court were referred to in support of the case.

6. Learned Senior counsel for the Petitioner Sri M.Vijay Kumar also argued the validity of the punishment on such trivial grounds and sought for setting aside the same notwithstanding the pendency of appeal before the 2nd Respondent.

7. Learned Assistant Government Pleader, Sri S.Raju, contended that the penalty of minor censure was imposed after taking note of the conduct of the Petitioner and for imposing of minor penalty, elaborate enquiry is not required and the same can be based on considering the explanation in view of Rule 16 of APCS CCA Rules. Learned Assistant Government Pleader further submitted that G.O.Ms.No.53, General Administration (Ser.C) Department, dated 04.02.1997 was issued clarifying that the

punishment of censure shall debar a Government employee for promotion/appointment by transfer for one year to both selection and non-selection posts. It is therefore submitted that the action of the Respondents in deferring the promotion of the Petitioner is in consonance with the Rules.

8. The issues now fall for consideration are:

(a) Whether penalty of censure shall debar an individual Government employee for promotion for a period of one year ?

(b) Whether the punishment imposed on the Petitioner can be sustained?

9. **Issue No.(a):** In the APCS CCA Rules, there is no specific consequence of penalty of censure imposed on Government employee. Taking note of this aspect, the State Government after due consideration, issued G.O.Ms.No.53 dated 04.02.1997. As per the said G.O., the punishment of censure was held to debar an employee for promotion for a period of one year, which reads as under:

ORDER:

According to sub-rule (i) of rule 9 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, "Censure" is

declared as a minor penalty. Para 11 of the G.O. first read above provides that an individual, who is undergoing punishment, should not be recommended for promotion and where the period of punishment imposed is already over, each period of punishment imposed is already over, each case has to be evaluated by Departmental Promotion Committee on merits. In the Government Memo, second read above, instructions were issued to the effect that solitary instance of minor punishment such as censure, fine, withholding of increments or recovery from pay of the pecuniary loss caused to the State Government or Central Government undergone or being undergone by a Government employee by itself does not automatically render a person unfit for promotion to a non-selection post.

2] The Government of India, Ministry of Home Affairs, in its instructions issued in O.M.No.39/21/56, Ests. (A), Dt.13-12-56 has clarified that an order of "Censure" is formal and public act intended to convey that the person concerned has been guilty of some blameworthy act or omission for which it has been found necessary to award him a formal punishment and nothing can amount to a "censure" unless it is intended to be such a formal punishment and imposed for 'good and sufficient reason' after following the prescribed procedure and that a record of the punishment so imposed is kept on the officer's confidential roll and the fact that he

has been 'Censured' will have its bearing on the assessment of his merit or suitability for promotion to higher posts.

3] As the penalty of censure has a bearing on the assessment of the Government Servant about his merit or suitability for promotion to higher posts and as the currency of punishment based on previous record stands as an impediment for promotion, it is considered necessary to specify the time limit during which the said penalty of "Censure" is effective besides defining the penalty.

4] Hitherto, there are no specific orders in regard to definition of "Censure" and its implications. After careful consideration, the Government decided to issue the following orders in regard to definition of "Censure" and its implications in assessing the "merit" and suitability of the Government Servant for his promotion/appointment by transfer.

DEFINITION:

"Censure" is a formal and public act intended to convey that the person concerned has been guilty of some blameworthy act or omission for which it has been found necessary to award him a formal punishment, and nothing can amount to a "Censure" unless it is intended to be such a formal punishment and imposed for "good and sufficient reason" after following the prescribed procedure.

Effect:

Every censure awarded shall debar a Government servant for promotion/ appointment by transfer for one year to both selection and non-Selection posts.

5] All the Departments of Secretariat and Heads of Departments are requested to bring these orders to the notice of all concerned.

10. Though, the above extracted G.O. is an executive instruction, the power of the executive is co-extensive with the legislature as provided in Article 162 of the Constitution of India. Executive instructions designed to fill gaps in legislation or to supplement them can be considered to be statutory in nature. It would be apt to refer to the observations in ***Distt. Registrar v. M.B. Koyakutty***¹,:

“22. There can be no quarrel with the proposition that if the statutory rules framed by the Governor or any law enacted by the State Legislature under Article 309 is silent on any particular point, the Government can fill up that gap and supplement the rule by issuing administrative instructions not inconsistent with the statutory provisions already framed or enacted. The Executive instructions in order to be valid must run subservient to the statutory provisions.”

¹ (1979) 2 SCC 150

11. Similar view was expressed in ***Kavita Kamboj v. High Court of Punjab & Haryana***², at paragraph 53 thereof.

“53. The appropriate authority cannot amend or supersede statutory rules by administrative actions. However, it is open to it to issue instructions to fill up the gaps and supplement the rules where they are silent on any particular point.¹⁹ Such instructions have a binding force provided they are subservient to the statutory provisions and have been issued to fill up the gaps between the statutory provisions.²⁰”

12. It is pertinent to note here that a similar **G.O.Ms.No.342 dated 04.08.1997**, was issued by the State Government to the effect that if employee is awarded the penalty of stoppage of increment with cumulative effect, the cases of such employees shall not be considered for promotion/appointment by transfer for twice the period for which the increments are stopped with cumulative effect, for both for selection and non-selection posts. The said G.O. was considered by a Division bench of this Court in ***State of A.P. and another v. K.Abhimanyudu***³ and it was held that the G.O.Ms.No.342 has statutory value and that it is policy decision of the State. Paragraph 17 thereof is extracted below;

“17. ...The Government is entitled to conduct its business by issuing appropriate orders in the name of

² (2024) 7 SCC 103

³ 2009 (6) ALD 636 (DB)

*Governor, which shall be specified under the Rules. C.C.A. Rules have been specifically enacted in exercise of powers of the State under proviso to Article 309 of the Constitution of India. **As the Rules made under the A.P. Civil Services (Classification, Control and Appeal) Rules do not provide the effect of penalty, the Government issued G.O.Ms. No.342 under executive power. Therefore, the order of the Government, issued in the name of Governor of Andhra Pradesh, under Article 162 of the Constitution of India has an effect of law.** As the aforesaid G.O. issued by the Government in exercise of its executive power under Article 154/162 of the Constitution of India is having force of law, as the effect of penalty is not covered by any statutory Rules, both the memos, dated 4.11.1999 and 9.2.2009 are issued by the Secretary to the Government. The Government cannot take away the effect of its order by issuing Circular Memo. G.O. Ms. No.342 issued by the Government is in the nature of policy of the State for giving effect to the penalties. Therefore, any policy decision of the Government issued in the form of G.O., cannot be diluted by way of Circular Memos. Therefore, we are of the opinion that the Circular Memos have no statutory force and the Circular Memo, dated 4.11.1999, which was relied on by the respondent has no effect of G.O. Ms. No.342.”*

13. Secondly, if the contention of the learned senior counsel is to be accepted, “*censure*” imposed on an established misconduct of an employee literally has no consequence. Such an approach would make the penalty of “*censure*” a dead provision in the rules. The discipline among the employees is instilled in fear of consequence of any act of misconduct and it would be unfair to treat an employee censured, on par with an employee with clean record for the purpose

of promotion. If a **punishment has no consequence**, it erodes deterrence and leads to the normalization of wrongdoing.

14. Thirdly, in none of the Judgments of the Hon'ble Supreme Court censure was held not to be a bar for promotion. To start with, in ***Union of India v. A.N.Mohanan***⁴, a departmental action was initiated against the individual therein and his case for promotion was kept in sealed cover. After enquiry, penalty of Censure was imposed and then the individual sought for promotion by opening the sealed cover. The Central Administrative Tribunal directed the opening of sealed cover and gave effect to promotion from retrospective date as censure is not a bar for promotion. The Hon'ble Supreme Court taking note of the observations in paragraph 26 of ***K.V.Janakiraman v. Union of India***⁵, set-aside the said order of the Tribunal as the imposition of penalty was a blame worthy factor and sealed cover cannot be acted upon. The relevant paragraph is extracted below;

11. Awarding of censure, therefore, is a blameworthy factor. A bare reading of Para 3.1 as noted above makes the position clear that where any penalty has been imposed the findings of the sealed cover are not to be

⁴ (2007(5) SCC 425)

⁵ (1991) 4 SCC 109

acted upon and the case for promotion may be considered by the next DPC in the normal course.

15. A similar view was taken in ***Union of India v. Mihir Kumar Bandhopandhyay***⁶, ***State of M.P. v. I.A.Quereshi***⁷ and in ***State Bank of India v. CK Karunakaran Civil Appeal No.6821 of 2009 dated 30.09.2021.***

16. In ***State of Rajasthan v. Shankar Lal Parmar***⁸, the Hon'ble Supreme Court was considering an issue as to whether an employee would be entitled for the grant of "selection grade", automatically, after the completion of 9 years, 18 years and 27 years of service, even when he has earned a penalty of censure.

17. A circular similar to G.O.Ms.No.53 deferring the benefit of selection grade for a period of one year was under consideration in the said judgment. After examining the circulars, the Hon'ble Supreme court held that deferring the selection grade by one year on account of censure is correct and there cannot be automatic grant of selection grade despite awarding penalty of 'Censure'. It was observed that distinction has to be made between employees imposed with a penalty of censure and those with clean records and

⁶ (2009(16) SCC 329

⁷ (1998 (9) SCC 261)

⁸ (2011 (14) SCC 235)

both cannot be treated alike. The relevant paragraphs are extracted below;

“1. Leave granted. The solitary question that arises for our consideration in the instant and the connected appeals is whether an employee would be entitled for the grant of “selection grade”, automatically, at the first instance, after the completion of 9 years, at the second instance, after the completion of 18 years and at the third and last instance, after the completion of 27 years of service, even when he has earned censure in the past years of service.

2. In fact, on the strength of an order pronounced by a Division Bench on 12-12-2003 in Devi Singh v. State of Rajasthan¹, several matters came to be filed in the High Court of Judicature of Rajasthan both at the Principal Bench at Jodhpur and at the Bench at Jaipur claiming entitlement for the selection grade. Unfortunately, the learned Judges, either sitting in Single Bench hearing the writ petitions of the employees or in Division Bench, hearing the writ appeals of the State, without properly appreciating or advertent to the ratio decidendi of the case, in a stereotype manner, went on allowing the writ petitions filed by the employees and dismissing the appeals preferred by the State.

*20. However, we need to clarify that during the interregnum period between the first office order, issued on 25-1-1992 and the subsequent clarificatory Office Order/Letter dated 24-7-1995, some of the employees were granted the benefit of selection grade. The appellant State would not be entitled to claim refund from such employees who have already been granted benefit in this period. The subsequent office order/letter further makes it clear that **all those employees who have earned censure in service shall also be entitled for the selection grade but the grant of selection grade to them would be deferred by one year. This appears to be an absolutely reasonable and perfect classification as otherwise every employee who has a clean image and another employee, who has earned censure would be treated on a par. This is not permissible in the service***

jurisprudence and is also violative of Article 14 of the Constitution.

21. It is a settled principle of law that “like should be treated alike”. This is the mandate and command of Article 14 of the Constitution, which we are required to follow. In any case, those who have earned censure cannot be treated on a par with those who have had a clean service record. As mentioned hereinabove, an employee with blemished, polluted, tainted, unclean service record cannot be equated with other employee who has enjoyed clean, unblemished, unpolluted, untainted and impeccable service record. Such differentiation would not be violative of Article 14 while dealing with the principles of equality.

18. The above judgment referred to ***Rajasthan SRTC v. Sadhu Singh***⁹. Apart from the above, the non-recommendation of an individual for promotion on account of penalty of censure was held to be a valid ground in ***Chabungham Ibohal Singh v. Union of India***¹⁰. A similar view was also taken in the ***State of T.N. v. P. Bose***¹¹.

19. The genesis for the orders passed by coordinate Benches treating Censure as not a bar for promotion, is an interim order in W.A.No.1158 of 2016 dated 21.11.2016 relying on the full bench of Madras High Court. The said W.A was subsequently dismissed as infructuous on 13.04.2022 as the individual was promoted. The

⁹ 2022(5) SCC 634

¹⁰ 1995 Supp (2) SCC 83

¹¹ 1993 Supp (3) SCC 491

Judgment of the Division Bench in ***State of A.P. and anr v. K.Abhimanyudu*** was also not brought to the notice, when interim order was made on 21.11.2016 in W.A.No.1158 of 2016. It is to be noted that there never was an authoritative pronouncement by this Court on this aspect. Unfortunately, the interim order held the field, even after the W.A. was dismissed as infructuous. A serious introspection is required by all the stakeholders representing the State.

20. Coming to the Full Bench decision of Madras High Court in the ***Deputy Inspector General of Police v. V.Rani***¹², the issue was a letter dated 07.10.2005 issued by the Secretary to Government giving consolidated instructions for promotions. In the said letter, it was stated that a person imposed with a punishment of censure cannot be considered for promotion and in regards other punishments, it was specified that such individuals could not be considered for promotion for five years. Firstly, the letters were issued with reference to G.O.Ms.No.368 dated 18.10.1993, but the said G.O. did not prescribe the bar of one year/five years as mentioned in the letter issued by the Secretary to Government. It was in that context, it was opined that the “censure” cannot be a

¹² 2011 (3) CTC 129

ground for deferring promotion for one year based on the letter. For better understanding paragraph 24 thereof is extracted below.

*“24....The embargo imposed in respect of further period as stated above can never be said to be authorized under the statutory rules. **The said Government letter can be treated as a circular issued by the Secretary to Government to all departments. This letter, as correctly submitted by the learned senior counsel Mr.G.Rajagopal, cannot supersede the statutory rules.**”*

21. As mentioned above, the scenario in this State is different and the bar is imposed vide G.O.Ms.No.53 dated 04.02.1997 issued in the name of Governor and signed by the Chief Secretary. This was held to be law as mentioned supra. Apart from that, most of the Judgments cited supra, did not fall for consideration before the Full Bench of Madras High Court as the focus was only on the validity of the Government letter.

22. In view of the above, the Issue No.(a) is answered holding that the penalty of “Censure” is a bar for promotion for the period specified in G.O.Ms.No.53 dated 04.02.1997.

23. **Issue (b):** On the merits of punishment imposed on the Petitioner, it is stated that a complaint was received from Sri D.Prabhakara Rao aged about 77 years resident of Kalhavapudi Village alleging that he had visited Tahsildar Office to enquire about

the status of RTI application and the Petitioner is said to have been answered in a rude and disrespect manner “he will send answer, don't ask” and thereby failed to maintain proper courtesy expected from a public servant.

24. On the basis of the complaint received, a show cause notice was issued to the Petitioner on 01.06.2026. In response, the Petitioner gave a reply stating that the information sought by the individual is being sought from VRO concerned and that the information as sought under RTI would be supplied within the stipulated time. It is stated that the Petitioner denied speaking in discourteous manner to the said individual.

25. In the impugned order, it is stated that a telephonic enquiry was made with regard to the complaint from D.Prabhakar Rao and in the telephonic enquiry, the complainant stated that the Petitioner had stated “meeku cheppala” which was perceived as disrespectful considering that the individual is aged 77 years. It is specifically mentioned that in the impugned order that there is no deliberate denial of RTI information, however, the interaction by the Petitioner was not appropriate to hold the standards of courtesy expected from a responsible public servant while dealing with citizens and in view of the same, the impugned penalty was imposed.

26. A reading of the impugned order shows that there was no verbal altercation nor there is any deliberate denial of information under RTI by the Petitioner.

27. In gauging discourteous behaviour of an individual, the same has to be viewed from a normal prudent persons view point. This is the yardstick adopted in defamation cases also. In the present case, the complainant felt offended by the words of the Petitioner 'meeku cheppala'. The statement of the Petitioner does not disclose any discourteous reply and merely because the complainant had perceived the statement of the Petitioner to be disrespectful, the same *per se* cannot be a ground. In the normal local dialect, the Petitioner had addressed the individual from a normal prudent person's point of view and therefore, the penalty of censure is unwarranted and accordingly, the same is set aside. The Issue (b) is answered accordingly.

28. In the light of the above, the writ petition is disposed of with the following direction:

(i) As the order of penalty is set aside, the Respondents shall consider the case of the Petitioner for promotion to the post of Tahsildar taking into account her seniority and in accordance with the Rules.

(ii) No order as to costs.

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

NYAPATHY VIJAY, J

Date:15.07.2026

Note: L.R. copy be marked.

KLP