

Date of reserved for orders :15.07.2026
Date of pronouncement :29.07.2026
Date of uploading : 03.08.2026

*** THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI**

+W.P.NO.6546 OF 2024

% 29.07.2026

#Between:

Karothu Surya Narayana ...Petitioner

\$And:

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

! Counsel for the Petitioner: PEDDIBHOTLA VENKATA SAI RAJESH

^ Counsel for the Respondents: CHINTAPALLI SRINIVAS

Counsel for the Respondents:GP FOR ENDOWMENTS

Counsel for the Respondents:D V SASIDHAR

<Gist:

>Head Note:

? Cases referred:

1. (1990) 2 SCC 715
2. (1976) 1 SCC 599
3. 2024 SCC Online SC 2642

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

+W.P.NO.6546 OF 2024

Karothu Surya Narayana

...Petitioner

\$And:

The State Of Andhra Pradesh and Others

...Respondent(s)

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE BALAJI MEDAMALLI

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

JUSTICE BALAJI MEDAMALLI

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI**WRIT PETITION NO: 6546 of 2024****ORDER:**

This Writ petition is filed challenging the action of the 3rd respondent in issuing Final Seniority List vide proceedings in Rc.No.B1/106/2018, dated 27.05.2023, and consequential proceedings in Rc.No.B1/106/2018, dated 01.06.2023 as illegal, and contrary to the provisions of AP Hindu Religious Institutions and Endowments Office Holders and Servants Service Rules, 2000.

2. The case of the petitioner is that, the petitioner was appointed as a Junior Assistant on compassionate grounds in the 3rd respondent temple on 17.10.2007. The 3rd respondent declared probation of the petitioner with effect from 18.10.2009 vide proceedings dated 28.10.2010. Thereafter, the petitioner was promoted to the post of Senior Assistant vide proceedings dated 24.03.2017, and has been discharging his duties in the said cadre since then. Petitioner was also sanctioned with periodical increments in the cadre of Senior Assistant on 24.11.2018 and is thus, eligible for appointment to the next promotional post of Superintendent. No objections were raised either by the official or unofficial respondents either at the time of his promotion in the year 2017 or thereafter.

3. Subsequently, the Executive Officer of the 3rd respondent issued a provisional seniority list for promotion to the post of Superintendent, wherein the petitioner was placed at Sl. No. 1. However, at the instance of the

unofficial respondents, the 3rd respondent published the final seniority list on 27.05.2023, in which the petitioner was pushed down to Sl.No. 6 from Sl.No. 1, on the ground that the date of declaration of probation should be reckoned as 17.04.2015, i.e., the date on which he completed the Accounts Test and the same was done without issuing any notice or affording any opportunity to the petitioner. Further, the 3rd respondent issued orders seeking recovery of an amount of Rs.1,38,103/- alleged to have been paid in excess to the petitioner. Thereafter, based on the said final seniority list dated 27.05.2023, the 3rd respondent issued promotion orders in favour of respondent Nos. 4 and 5. Aggrieved by the said action, the petitioner submitted a representation to the 2nd respondent. The 2nd respondent, in turn, directed the 3rd respondent to submit a detailed report within 15 days; however, no such report has been submitted till date.

4. Aggrieved by the above said action of the 3rd respondent, the present writ petition is filed.

5. Heard learned counsel for the petitioner and learned Standing Counsel appearing for respondent No.3 and learned counsel for respondent Nos.4 to 8.

6. The principal contention of the learned counsel for the petitioner is that, as per Rule 23 of AP State and Subordinate Service Rules, 1996, the revision of seniority by the authority has to be made within a period of 6 months. The objections, if any, to that shall be raised within a period of 90 days after fixation of the seniority. Petitioner was promoted in the year 2017 to the post

of Senior Assistant, and therefore, as per Rule 26 of AP State and Subordinate Service Rules duly fixing the seniority, the aggrieved parties are entitled to raise their objections within a period of 90 days, and the executive authority has no power to revise the seniority after the period of 6 months from the date of fixation of the seniority in the cadre of Junior Assistant for promotion to the post of Senior Assistant. For the sake of convenience, Rule 23 and 26 of AP State and Subordinate Service Rules is extracted hereunder.

23. APPEAL, REVISION AND REVIEW OF ORDERS OF APPOINTMENT (INCLUDING PROMOTION) TO HIGHER POSTS:-

An order appointing a member of a service or class service or category to a higher post by transfer or by promotion may, within a period of six months from the date of such order, be revised by an authority to which an appeal would lie against the order of dismissal passed against a member of a service, class or category, such revision may be made by the appellate authority aforesaid, either on its own motion or on an appeal filed by the aggrieved member of the service, class or category.

Provided that the Government may, irrespective of whether they are the appellate authority or not, revise such order of appointment after the expiry of the period of six months aforesaid, for special and sufficient reasons to be recorded in writing. Provided further that no order or revision under this rule shall be passed unless the person likely to be affected by such revision is given an opportunity of making his representation against the proposed revision.

26. APPEAL AGAINST SENIORITY OR OTHER CONDITIONS OF SERVICE:-

(a) Except where other-wise provided in these or the special rules, an appeal shall lie against an order fixing the seniority of a person or affecting any conditions of service, passed by the appointing authority, to the authority to whom an appeal would lie against an order of dismissal passed against the member of the service, class or category..

(b) The powers in sub-rule (a) shall be exercised by the Head of the Department, if he is not the appellate authority, or by the State Government on its own motion, or on an appeal received by the Head of the Department or the State Government, as the case may be.

(c) The appellate authority, if it is not the Head of the Department or the Government shall dispose of such appeal within a maximum period of one year. If the appeal has not been disposed of within the aforesaid period, the Head of Department or the State Government may in the matter, for

sufficient reasons to be recorded in writing and take such action as may be considered necessary by them in the matter.

(d) No appeal for restoration of seniority or assignment of notional seniority on par with his Junior shall be entertained by the appellate authority after a period of 90 days from the date on which junior was promoted.

7. Learned counsel for the petitioner placing reliance on the above said Rules submits that once the probation is declared and the subsequent promotions are effected, the seniority cannot be taken away after more than 16 years of declaration of such probation and revise the seniority. It is further contended that the benefits that were already accrued to the petitioner cannot be taken away, particularly, when specific limitations are prescribed with regard to the power of the executive authority to entertain appeals or revisions concerning fixation of seniority and declaration of probation. It is not the case that the petitioner had not acquired qualification by passing departmental test. It is an admitted case that he had passed departmental test in the year 2015 itself, which was well within the knowledge of the 3rd respondent while disposing of the alleged objections filed by the unofficial respondents. Therefore, the settled things cannot be unsettled once there is a time frame fixed by the rules to deal with the grievances of the aggrieved parties.

8. Learned counsel for the petitioner further submits that the 3rd respondent has no authority to revise the seniority after the prescribed period of six months, and only the Government has the power to do so, and objections, if any, are required to be raised within the limitation period of 90 days only. It is contended that, in the present case, the executive authority

revised the seniority after the limitation period by considering the objections stated to have filed by the unofficial respondents beyond the prescribed period, which is contrary to the provisions of the AP State and Subordinate Service Rules, 1996.

9. Learned counsel for the petitioner placed reliance on a judgment of Hon'ble Apex Court reported in ***Direct Recruit Class II Engineering Officer's Association Vs State of Maharashtra***¹, wherein the relevant portion is extracted hereunder

“13. When the cases were taken up for hearing before us, it was faintly suggested that the principle laid down in Patwardhan case [(1977) 3 SCC 399 : 1977 SCC (L&S) 391 : (1977) 3 SCR 775] was unsound and fit to be overruled, but no attempt was made to substantiate the plea. We were taken through the judgment by the learned counsel for the parties more than once and we are in complete agreement with the ratio decidendi, that the period of continuous officiation by a government servant, after his appointment by following the rules applicable for substantive appointments, has to be taken into account for determining his seniority; and seniority cannot be determined on the sole test of confirmation, for, as was pointed out, confirmation is one of the inglorious uncertainties of government service depending neither on efficiency of the incumbent nor on the availability of substantive vacancies. The principle for deciding inter se seniority has to conform to the principles of equality spelt out by Articles 14 and 16. If an appointment is made by way of stop-gap arrangement, without considering the claims of all the eligible available persons and without following the rules of appointment, the experience on such appointment cannot be equated with the experience of a regular appointee, because of the qualitative difference in the appointment. To equate the two would be to treat two unequals as equal which would violate the equality clause. But if the appointment is made after considering the claims of all eligible candidates and the appointee continues in the post uninterruptedly till the regularisation of his service in accordance with the rules made for regular substantive appointments, there is no reason to exclude the officiating service for purpose of seniority. Same will be the position if the initial appointment itself is made in accordance with the rules applicable to substantive appointments as in the present case. To hold otherwise will be discriminatory and arbitrary. This principle has been followed in innumerable cases and has been further elaborated by this Court in several judgments including those in Baleshwar

¹ (1990) 2 SSC 715

Dass v. State of U.P. [(1980) 4 SCC 226 : 1980 SCC (L&S) 531 : (1981) 1 SCR 449] and Delhi Water Supply and Sewage Disposal Committee v. R.K. Kashyap [1989 Supp (1) SCC 194 : 1989 SCC (L&S) 253 : (1989) 9 ATC 784] , with which we are in agreement. In Narender Chadha v. Union of India [(1986) 2 SCC 157 : 1986 SCC (L&S) 226 : (1986) 1 SCR 211] 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.”

10. The Hon'ble Apex Court in the above judgment held that the period of continuous officiation by a government servant, after his appointment by following the rules applicable for substantive appointments, has to be taken into account for determining his seniority; and seniority cannot be determined on the sole test of confirmation. Confirmation is one of the inglorious uncertainties of government service depending neither on efficiency of the incumbent nor on the availability of substantive vacancies. The principle for deciding inter se seniority has to conform to the principles of equality spelt out by Articles 14 and 16 and further held that, the officiating service has to be taken into account for the purpose of seniority and the same will be the position if the initial appointment itself is made in accordance with the rules applicable to the substantive appointments. The officers who 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 to the appointment made in accordance with the rules prescribed for regular

substantive appointment under the service has to be taken into account for reckoning the seniority.

11. Learned counsel for the petitioner also placed reliance on a judgment reported in ***Malcom Lawrence Cecil D'Souza Vs Union of India***², wherein the relevant portion of the order is extracted hereunder:

8. The matter can also be looked at from another angle. The seniority of the petitioner qua Respondents 4 to 26 was determined as long ago as 1956 in accordance with 1952 Rules. The said seniority was reiterated in the seniority list issued in 1958. The present writ petition was filed in 1971. The petitioner, in our opinion, cannot be allowed to challenge the seniority list after lapse of so many years. The fact that a seniority list was issued in 1971. in pursuance of the decision of this Court in Karnik case would not clothe the petitioner with a fresh right to challenge the fixation of his seniority qua Respondents 4 to 26 as the seniority list of 1971 merely reflected the seniority of the petitioner qua those respondents as already determined in 1956. Satisfactory service conditions postulate that there should be no sense of uncertainty amongst public servants because of stale claims made after lapse of 14 or 15 years. It is essential that anyone who feels aggrieved with an administrative decision affecting one seniority should act with due diligence and promptitude and not sleep over the matter. No satisfactory explanation has been furnished by the petitioner before us for the inordinate delay in approaching the Court. It is no doubt true that he made a representation against the seniority list issued in 1956 and 1958 but that representation was rejected in 1961. No cogent ground has been shown as to why the petitioner became quiescent and took no diligent steps to obtain redress.

12. Learned counsel placing reliance on the above judgment submits that the seniority of the petitioners by the respondents was determined long ago, as such, the same cannot be allowed to be challenged after lapse of so many years. As the petitioner's probation was declared in the year 2010 and he was promoted as Senior Assistant in the year 2017 after considering his seniority in the cadre of Junior Assistant and the same was never challenged nor

² (1976) 1 SCC 599

sought to be modified at any point of time and the same became final. Therefore, the same cannot be altered at this point of time.

13. Learned counsel for the petitioner also placed reliance on a judgment reported in **V.Vincent Velankanni Vs Union of India**³, wherein the relevant portion is extracted hereunder:

30. It is a well-settled proposition that once an incumbent is appointed to a post according to the rules, his seniority has to be reckoned from the date of the initial appointment and not according to the date of confirmation, unless the rules provide otherwise.

31. In the case of L. Chandrakishore Singh v. State of Manipur²⁷, this Court held that in cases of probationary or officiating appointments which are followed by a confirmation, unless a contrary rule is shown, the services rendered as the officiating appointment or on probation cannot be ignored while reckoning the length of service for determining the position in the seniority list. This view has been reiterated in the case of Ajit Kumar Rath v. State of Orissa²⁸.

32. The Constitution Bench of this Court in Direct Recruit Class II Engg Officers' Assn. (supra) stated the legal position with regard to inter se seniority of direct recruits and promotees and while doing so, inter alia, it was held that once an incumbent is appointed to a post according to rules, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.

33. This Court summarised the legal principles with regard to the determination of seniority in Pawan Pratap Singh v. Reevan Singh²⁹ in the following terms:

45. From the above, the legal position with regard to determination of seniority in service can be summarised as follows:

(i) The effective date of selection has to be understood in the context of the service rules under which the appointment is made. It may mean the date on which the process of selection starts with the issuance of advertisement or the factum of preparation of the select list, as the case may be.

(ii) Inter se seniority in a particular service has to be determined as per the service rules. The date of entry in a particular service or the date of substantive appointment is the safest criterion for fixing seniority inter se between one officer or the other or between one

³ 2024 SCC Online SC 2642

group of officers and the other recruited from different sources. Any departure therefrom in the statutory rules, executive instructions or otherwise must be consistent with the requirements of Articles 14 and 16 of the Constitution.

(iii) Ordinarily, notional seniority may not be granted from the backdate and if it is done, it must be based on objective considerations and on a valid classification and must be traceable to the statutory rules.

(iv) The seniority cannot be reckoned from the date of occurrence of the vacancy and cannot be given retrospectively unless it is so expressly provided by the relevant service rules. It is so because seniority cannot be given on retrospective basis when an employee has not even been borne in the cadre and by doing so it may adversely affect the employees who have been appointed validly in the meantime.

34. Thus, it is trite that when an employee completes the probation period and is confirmed in service albeit with some delay, the confirmation in service shall relate back to the date of the initial appointment. Any departure from this principle in the form of statutory rules, executive instructions or otherwise must be consistent with the requirements of Articles 14 and 16 of the Constitution of India.

14. The Hon'ble Apex Court held that the seniority has to be reckoned from the date of the initial appointment and not according to the date of confirmation, unless the rules provide otherwise. In cases of probationary or officiating appointments which are followed by a confirmation, unless a contrary rule is shown, the services rendered as the officiating appointment or on probation cannot be ignored while reckoning the length of service for determining the position in the seniority list. It was further held that once an incumbent is appointed to a post according to rules, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.

15. In the instant case, it is not the case that he was not appointed according to the rules. However, the only objection raised was regarding the declaration of probation by his predecessor. However, as stated above, no

opportunity of hearing was granted to the petitioner, and after allowing to perform his duties in the cadre of Junior Assistant and Senior Assistant for more than 16 years, such length of service cannot be ignored for the purpose of considering his seniority, on technical grounds, and prays to set aside the impugned order.

16. Per contra, learned counsel appearing for the unofficial respondents submitted that as the very declaration of probation was illegal, the same could not have been done by the then executive officer of the 3rd respondent. As such, all the subsequent promotions and granting of increments are equally bad. Hence, the 3rd respondent has now rightly considered the rule position and declared the probation with effect from 17.04.2015, and consequently passed the order impugned in the present writ petition. As such, there is no illegality or irregularity in passing the impugned orders.

17. That apart, learned Standing Counsel appearing for official respondents submitted that as on the date of declaration of probation, the employee must pass Accounts Test and the same has not been completed by the petitioner, as such, his declaration of probation itself was wrongly done by the then 3rd respondent on 28.10.2010 with effect from 19.10.2007. Thus, as on that day, he was not eligible to be appointed as Senior Assistant and in fact, he is liable to be discharged from service in the cadre of Junior Assistant. However, considering his length of service, the declaration of probation was taken as 17.04.2015, on which day, he acquired the Special Qualification, as such, the

seniority was re-fixed with effect from 17.04.2015. Therefore, the petitioner cannot raise any objection on the same. The provisional seniority list published, itself is a notice to the petitioner, as such, he ought to have submitted his objections, if any. Therefore, he cannot contend that there was no notice served to him.

18. Learned Standing Counsel for the respondents placed reliance on AP Charitable and Hindu Religious Institutions and Endowments Office Holders and Servants Service Rules, 2000, (for short 'the Rules') wherein he has drawn the attention of this Court to Rule 7(4) of the Rules which reads as under.

"If the probationer fails to acquire the special qualifications and to pass the special tests if any prescribed within the period of probation, the appointing authority may either terminate his probation or extend his probation for a period of not exceeding two more years so as to enable him to pass the tests and to acquire the special qualification."

19. Learned Standing Counsel for the respondents placed reliance on the above Rule, submitted that the petitioner has not acquired qualification till 2015. However, he was promoted to the next higher post, which is contrary to Rule 7(4) of the Rules, as such, the authority ought to have discharged him from the service or ought to have extended his probation. Without doing so, the authority promoted him. He further placed reliance on Rule 12 of the Rules which stipulates that the seniority of an employee in a particular category or post shall count from the date of commencement of probation in that category or post unless he has been reduced to lower rank as a punishment, be

determined by the date of his first appointment to such category post. He further placed reliance on Rule 33, which stipulates that each institution or endowment shall be a unit for the purpose of recruitment, seniority and promotion and finally submitted that the executive officer of the 3rd respondent has rightly passed the impugned order.

20. Learned counsel for the petitioner in reply draws the attention of this Court to Rule 2(f) of the AP Charitable and Hindu Religious Institutions and Endowments Office Holders and Servants Service Rules, 2000, which reads as under:

“The expressions used in these Rules shall have the same meaning assigned to them in the Act and in the Andhra Pradesh State and Subordinate Service Rules.”

Placing reliance on the above said Rule, learned counsel submits that as there is no specific rule provided under the above said Rules with regard to revision and appeal are concerned, as such, Rule 23 and Rule 26 of AP State and Subordinate Service Rules have to be relied upon. As such, the authority cannot revise the date of probation or the seniority after a long lapse of time, and as such, the order impugned in the writ petition is liable to be set aside.

21. Considering the submissions made on either side and on perusal of the record, it is evident that the petitioner was initially appointed in the year 2007, and his probation was declared with effect from 19.10.2007, vide proceedings dated 28.10.2010. The said declaration was neither questioned by the

unofficial respondents nor reconsidered by the authority. Thereafter, after considering the seniority in the cadre of Junior Assistant, he was promoted to the post of Senior Assistant in the year 2017, and has been discharging his duties in the said post for the past six years and the same was never under challenge. However, in the cadre of Senior Assistant, the provisional list of seniority was published. Thereafter, the unofficial respondents seem to have raised certain objections, and the 3rd respondent, without issuing any notice or affording any opportunity to the petitioner, had revised the same, without taking into account the long service rendered by the petitioner for about two decades in the capacity of Junior Assistant as well as Senior Assistant.

22. Once the seniority attained finality in view of the long service rendered by the employee in the officiating post, the same cannot be interdicted after long lapse of time. As the above said both the rules which are admittedly applicable to the petitioner's case, the authorities cannot now revise the seniority in the name of change of date of probation on the pretext of acquisition of qualification and also initiating recovery proceedings apart from denying promotion to the petitioner is nothing but unsettling the settled or accrued rights of the petitioner. Apart from the above, the action of the 3rd respondent in proceeding with the impugned action is without issuing any notice or without conducting any enquiry and everything is behind back of the petitioner, as such, the same is hit by the principles of natural justice apart from violation of the AP State and Subordinate Service Rules, 1996 read with AP Charitable and Hindu Religious Institutions and Endowments Office

Holders and Servants Service Rules, 2000, as such, the impugned order is liable to be set aside.

23. Accordingly, the writ petition is allowed. Consequently, the impugned proceedings in Rc.No.B1/106/2018, dated 27.05.2023, and consequential proceedings in Rc.No.B1/106/2018, dated 01.06.2023 issued by the 3rd respondent are hereby set aside, and the respondent No.3 is directed to place the petitioner at his appropriate place in the seniority list and effect all consequential benefits including promotion on par with his juniors..

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

Date: 29.07.2026
Dvs

JUSTICE BALAJI MEDAMALLI

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

WRIT PETITION NO: 6546/2024

Dt: 29.07.2026

Dvs