

HIGH COURT OF ANDHRA PRADESH

* * * *

W.P.NO.8394 of 2026

DATE OF JUDGMENT PRONOUNCED: **03.09.2026**

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.8394 of 2026

% 03.09.2026

Between:

G.Papa Rao, S/o G.Devedu,
Aged 58 Yrs.,
Occ: working as Deputy Director of Mines and Geology,
Ibrahimpattam, A.P.

...Petitioner

And

The State of Andhra Pradesh, rep. By its Special Chief Secretary
Industries and Commerce (Mines) Department, A.P. Secretariat,
Velagapudi, Amaravati, Guntur District and 2 others.

...RESPONDENT(S)

Counsel for the Petitioner : Smt. Kavitha Gottipati

Counsel for the Respondent(S): G.P. for Services –I and II

< Gist :

> Head Note:

? Cases Referred:

¹ (2012) 12 SCC 462

² W.P.No.16125 of 2018 dated 19.09.2019

Date of reserved for orders :

Date of pronouncement :

Date of uploading :

APHC010157302026



IN THE HIGH COURT OF ANDHRA

PRADESH

AT AMARAVATI

[3460]

(Special Original Jurisdiction)

THURSDAY, THE 3rd DAY OF SEPTEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 8394/2026

Between:

1.G PAPA RAO, S/O. G. DAVEEDU AGED ABOUT 58 YEARS, OCC WORKING AS DEPUTY DIRECTOR OF MINES AND GEOLOGY, IBRAHIMPATNAM, PRESENTLY WORKING IN APMDC, VIJAYAWADA ON OTHER DUTIES, R/O. ILL LINE, PANDURANGA NAGAR, GUNTUR, GUNTUR DISTRICT, ANDHRA PRADESH.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, INDUSTRIES AND COMMERCE (MINES) DEPARTMENT, A.P. SECRETARIAT, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT -522238

2.THE DIRECTOR OF MINES AND GEOLOGY, SRI ANJANEYA TOWERS, B-BLOCK, 6TH AND 5TH FLOOR, IBRAHIMPATNAM, NTR DISTRICT, ANDHRA PRADESH - 521456

3.THE DEPARTMENTAL PROMOTION COMMITTEE,
 REP.BY ITS CHAIRMAN, GENERAL ADMINISTRATION
 DEPARTMENT, A.P. SECRETARIAT, VELAGAPUDI,
 AMARAVATI, GUNTUR DISTRICT -522238

...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 be pleased to issue a writ, or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not considering the candidature of the petitioner for promotion to the post of Joint Director of Mines and Geology from the category of Deputy Director of Mines and Geology merely on the ground of pendency of charge memo vide G.O. Rt. No. 28 Industries and Commerce (Vigilance) Department dated 09-02-2022 issued by the 1st respondent is illegal, arbitrary and violative of Article 14 and 16 of the Constitution of India, contrary to the orders passed by this Honble Court in WP No. 5938 of 2024 dated 30-07-2024 and also to the observations made by this Honble Court in CC No 1710 of 2025 dated 17-10-2025 and consequently direct the respondents to consider the case of petitioner for promotion to the post of Joint Director of Mines and Geology on par with others in the ensuing promotions without reference to pendency of charge Memo vide GO Rt No. 28 Industries and Commerce (Vigilance) Department dated 09-02-2022 issued by the 1st respondent, and pass such

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 direct the respondents to consider the case of petitioner for promotion to the post of Joint Director of Mines and Geology on par with others in the ensuing promotions without reference to pendency of charge Memo vide GO Rt No. 28 Industries & Commerce

(Vigilance) Department dated 09-02-2022 issued by the 1®* respondent and in terms of orders passed by this Hon'ble Court in WP No. No. 5938 of 2024 dated 30-07-2024 and also to the observations made by this Hon'ble Court in CC No 1710 of 2025 dated 17-10-2025, pending disposal of the above writ petition, and pass such

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

IA NO: 3 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 dated 01.04.2026 in W.P.No.8394 of 2026 and dismiss the present Writ Petition and pass

IA NO: 4 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 implead the Petitioner/proposed Respondent No. 4 in the Writ Petition as Respondent No.4 and pass

IA NO: 5 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 order dated 01.04.2026 passed in WP No. 8394 of 2026 and pass

Counsel for the Petitioner:

1.KAVITHA GOTTIPATI

Counsel for the Respondent(S):

1.GP FOR SERVICES I

2.GP FOR SERVICES II

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**W.P.No.8394 of 2026****O R D E R:**

The present writ petition is filed questioning the action of Respondents in not considering the candidature of the Petitioner for promotion to the post of Joint Director of Mines and Geology from the cadre of Deputy Director of Mines and Geology as illegal and arbitrary.

2. Petitioner initially joined the Mines and Geology Department as Technical Assistant in the year 1992 and was promoted as a Royalty Inspector, Assistant Geologist, Assistant Director and Deputy Director in the years 1996, 2004, 2005, and 2017 respectively. The next available post for promotion is that of Joint Director of Mines and Geology. While so, Respondent No.1 had proposed to conduct a common enquiry against the Petitioner as well as one B.Jagannadha Rao for an incident relating to 2015 and accordingly sanction orders were issued by G.O.R.T.No.26, Industries and Commerce (Vigilance) Department dated 09.02.2022. The Articles of charges were issued by G.O.Rt.Nos.28 and 27 Industries and Commerce (Vigilance) Department dated 09.02.2022. The Petitioner

submitted a statement of defence on 22.09.2022 refuting the allegations. However, no further progress was made in the departmental inquiry and the delay was impacting the career progress of the Petitioner to the cadre of Joint Director. Hence, the present writ petition is filed.

3. Petitioner earlier filed W.P.No.5938 of 2024 and the said writ petition was disposed of on 30.07.2024 directing the Respondents to consider the case of the promotion of the Petitioner in terms of G.O.Ms.No.257 GAD, dated 10.06.1999. It is stated that D.P.C. was conducted on 05.03.2026 to approve the names of eligible candidates and the name of the Petitioner was deferred on account of mere pendency of departmental proceedings. Though the Petitioner stood at Sl.No.2 in the seniority list, it is stated that non-consideration of the case of the Petitioner is contrary to the directions of this Court in W.P.No.5938 of 2024.

4. In the counter affidavit filed by Respondent No.2, it is stated that taking note of the orders of this Court in W.P.No.5938 of 2024, D.P.C. proposal of list of candidates including the Petitioner was submitted to the General Administration to the post of Joint

Director of Mines and Geology. Screening committee was convened on 05.03.2026 and the D.P.C. proceedings were communicated vide U.O. Note No.3161320/SER.A/2026, dated 11.03.2026, wherein it was observed that C.B.A. has filed a charge sheet against the Petitioner for the offenses under Sections 120-B, 379, 386, 392, 420, 447 & 465 I.P.C. and Section 3 of the Prevention of Damage to Public Property Act, 1984 and Section 21 of the Mines and Mineral (Development & Regulation) Act, 1957. The Committee, after going through the ACRs found the Petitioner not fit for inclusion in the panel and his name was not considered.

5. It is further stated that acts of commission and omission on the part of Petitioner while discharging his official duties, facilitated large scale illegal excavation and transportation of limestone from Konanki, Nadikudi and Kesanupalli Villages and the said activity resulted in loss to the Government exchequer which was quantified at Rs.124,46,41,278/- i.e. loss comprising seigniorage fee at the rate of Rs.50/- per Metric Ton and loss towards market value at the rate of Rs.250/- per Metric Ton. It is stated that considering the gravity of the irregularities and the loss caused to the State, Government decided to entrust the matter to

the Central Bureau of Investigation (CBI) for detailed investigation and orders were issued vide G.O.Ms.No.111, Homes (SC.A), Department dated 12.09.2019. On completion of investigation, prosecution sanction was accorded against the Petitioner on 10.12.2021. Thereafter, CBI had taken cognizance of the matter and registered C.C.No.03 of 2025 on 17.03.2025.

6. It is stated that G.O.Ms.No.257, dated 10.06.1999 has no applicability considering that the same would come into play only when the candidature of the employee was referred in two consecutive DPCs and the same is not the case in the present writ petition. It is also stated that the order in W.P.No.5938 of 2024 were scrupulously followed and the judgment in W.P.No.21702 of 2021 dated 08.05.2023 was referred holding that pending criminal proceedings, employee cannot claim promotion as a matter of right. It is further stated that the declaration of probation and finalization of seniority in the cadre of Deputy Director does not automatically confer a right on promotion unless the parameters prescribed are complete.

7. On account of the interim order granted by this Court, implead applications and counter affidavits by impleading

Respondents seeking to vacate the interim order were filed on the ground that their promotions are affected by virtue of the interim order.

8. Heard Smt.Kavitha Gottipati, learned counsel for the Petitioner and learned Government Pleader for Services-II.

9. The issue that falls for consideration is whether an employee facing grave charges in departmental or criminal case is entitled to be considered for promotion?

10. The charges against the Petitioner in the departmental enquiry are that the Petitioner while working as ADM&G (Vig) Guntur misused his official position by not taking any action against illegal limestone quarrying at Konanki Village, Piduguralla Mandal and Nadikudi and Kesanupalli villages of Dachepalli Mandal. It was alleged that the Petitioner was fully aware of the illegal mining and intentionally did not take action, which lead to excavation of 2115825.14 Mts of limestone illegally. The further allegation against the Petitioner was that he prepared false inspection reports being a member of divisional inspection team constituted by the collector.

11. It was alleged that the Petitioner in the report stated that illegal quarrying was carried out in the night and that the same was stopped. The further allegation is that the Petitioner did not comply with the orders of this Court dated 28.3.2016 in WP.(PIL) No.228 of 2015 to assess loss to enable the State to recover loss of seigniorage and royalty. Further, it was alleged that the Petitioner prepared mediators' names for identifying persons involved in the illegal quarrying, but did not include the main persons responsible. The loss to the exchequer on account of intentional inaction was said to have caused loss of **Rs. 124,46,41,278/-**.

12. Considering the gravity of the case and the magnitude of loss, the State Government vide G.O.Ms.No.111 (SC.A) Department, dated 12.09.2019 entrusted the case to the CBI for detailed investigation. The CBI after conducting investigation in the case, filed a detailed charge sheet against 17 persons apart from the Petitioner. The Government had accorded sanction for prosecution of the Petitioner and the Special Court for CBI cases, Vijayawada took cognisance and numbered the case as C.C.No.3 of 2025 which is pending trial.

13. Though, in the pleadings, the Petitioner pleaded innocence, this Court considering the scope of this writ petition cannot go into those aspects as they are aspects which ought to be urged in the criminal case. Coming to the claim for promotion, the State Government had issued G.O.Ms.No.257, dated 10.06.1999 for considering promotion of employees facing disciplinary enquiries. The guidelines for consideration of promotion to the officials facing criminal cases were classified into three categories for considering promotion. Paragraph 5(B) thereof is extracted below;

B. Officers who are facing enquiry, trial or investigation can be categorised into the following groups based on the nature of the allegations of charges pending against them or about to be instituted namely:-

(i) an officer with a clean record, the nature of charges or allegations against whom relate to minor lapses having no bearing on his integrity or efficiency, which even if held proved, would not stand in the way of his being promoted;

(ii) an officer whose record is such that he would not be promoted, irrespective of the allegations or charges under enquiry, trial or investigation; and

(iii) an officer whose record is such that he would have been promoted had he not been facing enquiry, trial or

investigation, in respect of charges which, if held proved, would be sufficient to supersede him."

14. The above classification indicates that the promotion can be considered only where the charges against the Charged Officer are minor in nature, which do not have a bearing on his integrity or efficiency. Paragraph 6 of the said G.O., in fact restrains the authority from considering for promotion when the Charge against the employee is with regard to moral turpitude, misappropriation, embezzlement and grave dereliction of duty, as it is not in the public interest. The Paragraph reads as under;

*"6. The appointing authority should consider and decide that it would not be against public interest to allow ad hoc promotion to the officer concerned and this shall be decided with reference to the charge under enquiry. **If the charge is one of moral turpitude, misappropriation, embezzlement and grave dereliction of duty then the appointing authority should consider as not in the public interest to consider ad hoc promotion to such charged officer.** But, however, if the charge is not a grave one but is a minor one, not involving moral turpitude, embezzlement and grave dereliction of duty then only in such cases the appointing authority should consider that it would not be against public interest to allow ad hoc promotion because till then his record is clean with reference to ACRS, past punishment and reputation in the department*

as vouchsafed by the Head of the Department and Secretary to Government. The appointing authorities should strive to finalise the disciplinary cases pursuing them vigorously so that within two years the proceedings are concluded and final orders issued."

15. A combined reading of Paragraphs 5(B) and 6 shows that the individuals facing criminal cases on grave allegations of corruption are not entitled even to be considered for promotion in public interest.

16. The promotion to an individual is an incentive conferred on the individual for his service in keeping the interest of the department as the foremost. At the same time, the department is also obligated to grant the benefits of promotion to such individuals. It is a mutual duty and obligation. The right of an employee to be promoted is, at the least, expected to have a clean and unblemished record and in the absence of such a clean record, the department is not under duty to promote such an individual.

17. One-dimensional sympathy for the employee facing grave allegations of corruption, embezzlement of public money etc., would seriously impair the morality in the department. An

employee facing serious allegations of bribery cannot be placed on par with the other employees and his case has to be treated differently. In the opinion of this Court, the promotion of individuals facing grave charges will have a demoralising effect on honest persons working in the department and normalise wrongful acts.

18. The directions to consider individuals facing serious allegations for promotion would only open another avenue to pursue promotion under the cover "consider" orders and such an avenue should be nipped in the bud. The usual plea of delay in conclusion is of no avail in cases of this nature as there would be inevitable delay in conclusion of criminal cases on account of various dynamics and strategies employed at the trial and there is no magic wand in the hands of anybody to ensure expeditious conclusion.

19. In ***State of T.N. v. E. Rangachari***¹, the Hon'ble Supreme Court set-aside an order of the State Tribunal and Madras High Court for inclusion of an employee for promotion, who was facing a criminal case for demanding bribe as in this case. It was held

¹ (2012) 12 SCC 462

that an individual can seek promotion after acquittal in a criminal case.

20. Similarly, the Division Bench of this Court in ***K.V. Ramana Police Reddy v. Deputy Inspector General of Police***² after taking note of G.O.Ms.No.257 referred above, refused to give a direction for the individual therein to be considered for promotion as he was facing ACB criminal cases. The relevant portion of the order is extracted below;

*"We are of the considered view that no direction can be given to the respondents to consider the case of the petitioner straightaway for promotion. **The petitioner has to come out clean after being absolved from all the said criminal cases involving moral turpitude. Therefore, we do not find any merit in the claim of the petitioner in this Writ Petition to direct the respondents to issue order of promotion and order of posting to him in the cadre of Inspector of Police as prayed by him.**"*

21. A Division Bench of High Court of Telangana considered a similar claim for promotion with reference to G.O.Ms.No.257 in the case of ***N.Srinivasulu v. State of Telangana*** (W.A.No.209 of 2020 dated 22.11.2021). The individual in that case was facing

² W.P.No.16125 of 2018 dated 19.09.2019

criminal case under the provisions of Prevention of Corruption Act, 1988 apart from departmental enquiries. The Division Bench, after referring to the catena of case law on this aspect, held that the individual is not entitled to be promoted. The relevant paragraphs thereof are extracted below;

*“Keeping in view the aforesaid judgments’ the office memorandum, which is of the year 1976 vintage has got no meaning. The law has been crystallized by the Hon’ble Supreme Court and it is not a case of an officer’ who is facing a singular departmental enquiry’ but it is a case of an officer’ who is facing two departmental enquiries that too wherein the charge sheet has been issued for imposition of major punishment. **Not only this, he has involved in criminal case and he is facing criminal prosecution under the Prevention of Corruption Act. Granting permission to such an officer would amount to granting of premium to such officers and therefore, in the considered opinion of this Court, the State Government was well within its power to reject the claim of the appellant for ad hoc promotion also.**”*

22. The SLP.(Civil) No.6811 of 2022 filed thereon was dismissed by Hon’ble Supreme Court on 29.04.2022.

23. Therefore, this Court does not find any merit in the writ petition and the same is accordingly dismissed. No order as to costs.

As a sequel, the miscellaneous petitions if any shall stand dismissed.

NYAPATHY VIJAY, J

Date: 03.09.2026

KLP

Note: L.R. copy be marked.