



**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)**

**FRIDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE**

:PRESENT:

**THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA
WRIT PETITION NO: 3613 OF 2023**

Between:

1. Yandrapu Ramesh Kumar, S/ o Satyanarayana, Aged 38 years, Occ. Ex-Serviceman, Not Employed, R/o H.No.6-156, Velampeta, Chitrada Village, Pithapuram Mandal, East Godavari District, Andhra Pradesh State-533450.
2. Ramesh Duvva, S/o Eswara Rao, Aged 37 years, Occ. Ex-Serviceman, Not Employed, R/o Ramanujulapeta Village, Rajam Mandal and Post, Srikakulam District, Andhra Pradesh State-532127.

Petitioner

AND

1. Andhra Pradesh Public Service Commission, Rep. by its Secretary, Government of A.P., Vijayawada, Krishna District.
2. State of Andhra Pradesh, Rep. by its Principal Secretary to Government, Revenue Department, Secretariate, Velagapudi, Guntur District.
3. State of Andhra Pradesh, Rep. by its Principal Secretary to Government, General Administration Department, Secretariat, Velagapudi, Guntur District.

Respondents

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 call for the records pertaining to impugned Notification No.23/2021 dated 28.12.2021 and hold the action of the 1st respondent Public Service Commission in not prescribing the relaxed standards for Ex-servicemen in the matter of calling the Ex-Servicemen candidates for main selection/main examination from out of preliminary examination on par with SC/ST/PH candidates leading to denial of petitioner's right for main selection process though they acquired much more than the qualifying marks as fixed for OC candidates leading to a situation where less number of Ex-servicemen competing for the notified vacancies than the fixed ratio of 1:17 as fixed by the 1st respondent Public Service Commission and hold further inaction on the part of the respondents No.2 and 3 in allowing the illegality to happen as bad, illegal, arbitrary, contrary to Policy of the Government of India and the Government of Andhra Pradesh as mentioned in G.O.Ms.No.57, dated 13.03.2001 and G .O. Ms . No .191 dated 06.09.2005 and unconstitutional and consequently direct the respondents to permit the petitioners to participate in main selection / main examination by issuance of Writ of Mandamus or issue any Writ, Order or Direction.

IA NO: 1 OF 2023:

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased prayed to direct the Public Service Commission/1st respondent to permit the petitioners to participate in the selection process in pursuance of impugned

Notification No.23/2021 dated 28.12.2021, Pending disposal of WP 3613 of 2023, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri. J SUDHEER Advocate for the Petitioners and of V.VENKATA NAGA RAJU (SC FOR APPSC) for the Respondent No.1 and of GP FOR SERVICES for the Respondent Nos.2 & 3, the Court made the following

ORDER:

“Heard learned counsel for the petitioners, learned Government Pleader for Services-1 and learned Standing Counsel for APPSC appearing for the respondents.

Learned counsel for the petitioners submits that in view of the G.O.Ms.No.57 Home(General.B) Department, dated 13.03.2001, the Ex-servicemen are entitled for relaxation of standard of selection to makeup deficiencies in the reserved quota subject to condition that such relaxation will not effect the level of performance by such candidates. He further submits that the said relaxation in respect of educational qualification is enumerated in G.O.Ms.No.57 dated 13.03.2001 under clause3(i)(A)(B)(C) and the same was reiterated by the Hon'ble Supreme Court in State of Orissa vs. Mohd. Yunus and others (1994 Supp(2) SCC 55). The operative portion of the judgment referred supra reads as follows:

"It is stated by Mr.Mehta, learned counsel for the State that the Commission has put a minimum of 780 marks as qualifying marks for the general candidates. The respondent admittedly belongs to the general category. Though three posts have been reserved for ex- servicemen, if a candidate who belongs to ex-servicemen gets eligibility by securing 780 minimum marks, irrespective of the fact whether he/they comes by general selection or not, by virtue of reservation made to the ex-servicemen, he/they become eligible for consideration. This relaxation has been made in contradistinction with other general candidates but for

which the respondent would be ineligible. The fixation of the general standard marks prescribed for the general candidates would undoubtedly be a handicap to the ex-service personnel who are made to compete with youngsters after several years of service put in the defence service. The State Government and the Public Service Commission are directed to consider the desirability to fix a lesser standard than that of the general candidates as ex-servicemen have served the nation in its defence and in the process they may not come on a par with the general candidates. Therefore, some relaxation in their behalf would be necessary to meet the exigencies of coping up with the reservation given to them. Otherwise, reservation would be illusory. The State Government in consultation with the Public Service Commission would decide this issue within a period of three months from the date of the receipt of this order and thereafter consider the case of the respondent accordingly."

He further submits that pursuant to the notification in O.M.No.150152/8/82Estt(D), dated 12.02.1986 issued by the Govt. of India, Ministry of Personnel, Public Grievances & Pensions (Deptt. Of Personnel and Training) New Delhi, the State Government has issued the G.O.Ms.No.57 dated 13.03.2001. The Rule 6(a) of the notification dated 12.02.1986 categorically envisages as follows:

"Lower Standard for Selection: In the case of directed recruitment, if sufficient number of candidates belonging to the ex-servicemen are not available on the basis of general standard to fill all the vacancies reserved for them. Candidates belonging to the

category of ex- servicemen may be selected under a relaxed standard of selection to make up the deficiency in the reserved quota subject to the condition that such relaxation will not affect the level of performance by such candidates."

He further submits that in view of the ratio laid down by the Hon'ble Apex Court as well as the notification issued by the Central Government and also G.O.Ms.No.57 dated 13.03.2001 issued by the 2nd and 3rd respondents, the petitioners, more particularly, the ex-servicemen are entitled for relaxation in respect of minimum qualifying marks in the selection process. Therefore, the petitioners are entitled to participate in the main examination, if their case was considered under relaxed standard of selection as was considered in other nonfictions issued by the High Court of Andhra Pradesh on 21.10.2022 as well as by the Police Recruitment Board on 12.11.2018. Wherein, the authorities considered the case of ex-servicemen not only in respect of relaxation in educations qualifications but also in respect of relaxed standard of selection granted on par with SC, ST reserved category.

On the other hand, learned Standing Counsel for the 1st respondent filed counter affidavit stating that the G.O.Ms.No.103 General Administration (Ser.A) Department, dated 03.02.1967 does not speak about standard relaxation in respect of ex- servicemen. But, G.O.Ms.No.5 dated 05.01.2018 speaks about the authority of commission for fixing minimum qualifying marks for any reserved category. Therefore, the Commission is empowered to fix minimum marks for every reserved category basing upon the requirement as per its wisdom and it cannot be questioned or it cannot be interfered.

Having regard to the submissions made by both the learned counsels, it is an admitted fact that as per the G.O.Ms.No.57 dated 13.03.2001 issued by the 2nd and 3rd respondents the clause 3(c) specifically envisages that relaxed standard of selection should be applied towards ex-servicemen by considering all the aspects relating to ex- servicemen. It is also not in dispute that G.O.Ms.No.57 dated 13.03.2001 is in operation and is in force. It is also not in dispute that the petitioners belongs to ex-servicemen and they participated in

the preliminary examination and moreover, they also secured marks more than minimum marks prescribed for SC, ST category. Further, the notification issued by this Court as well as Police Recruitment board prescribes relaxation in standard of selection on par with SC, ST category.

In view of the foregoing discussions, in view of the principles laid down by the Hon'ble Supreme Court referred supra, this Court prima-facie satisfied with the arguments of the petitioner. Therefore, there shall be an interim direction to 1st respondent to allow the petitioners to participate in selection process pursuant to the impugned notification dated 28.12.2021 and the respondents are specifically directed to see that the petitioners should participate in the final examination.

Learned Government Pleader appearing for the respondents seeks time for filing counter.

At his request, list the matter after two weeks."

Sd/- M.SRINIVAS

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Andhra Pradesh Public Service Commission, Government of A.P., Vijayawada, Krishna District.
2. The Principal Secretary to Government, State of Andhra Pradesh, Revenue Department, Secretariate, Velagapudi, Guntur District.
3. The Principal Secretary to Government, State of Andhra Pradesh, General Administration Department, Secretariat, Velagapudi, Guntur District. (Addresses 1 to 3 by RPAD)
4. One CC to SRI. J SUDHEER Advocate [OPUC]
5. One CC to SRI. V.VENKATA NAGA RAJU (SC FOR APPSC) Advocate [OPUC]
6. Two CCs to GP FOR SERVICES, High Court of Andhra Pradesh. [OUT]
7. **One spare copy**

ER

HIGH COURT

NV, J

DATED:17/03/2023

LIST THE MATTER AFTER TWO WEEKS

ORDER

WP.No.3613 of 2023

INTERIM DIRECTION

