

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

THURSDAY, THE TWENTIETH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

WRIT PETITION NO: 6015 OF 2024



Between:

B.Ramu, S/o. Appalaswamy, Age 45 years, Work Inspector, O/o. Executive Engineer II Water supply and maintenance. Greater Visakhapatnam Municipal Corporation, Visakhapatnam

...PETITIONER

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, Municipal administration and Urban Development Dept, A.P. Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Engineer-In-Chief (Public Health), Thadepalli, Guntur District.
3. Superintending Engineer, Public Health Engineering Circle, Seethammadhara, North Extension, Visakhapatnam.

...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 issue a Writ, Order or direction more in the of Mandamus declaring the action of the respondents in not considering nature the case of the petitioner for promotions to the post of Municipal Assistant Engineer treating the petitioner as technical personnel provided under G.O.Rt.No.595 HMA and UD, dt.22.09.1977 and not extending the benefits which was extended in favour of 7 persons treating them as technical personnel including work inspectors i.e., Prabhakar rao, Siva Naga Malleswari and inspite of the orders passed by the Hon'ble High Court in W.P.3314 of 2021, dt.30.03.2022 while implementing the said orders of the

Hon'ble High Court for effecting promotion to one Mr.Challa Sreenivasa rao is illegal and violates Article 14, 16 and 21 of the Constitution of India and consequentially declare that the petitioner is entitled for promotion to the post of Municipal Assistant Engineer in Zone-I on par with others.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to issue the Interim Direction directing the respondents forthwith consider the case of the petitioner promotion to the post of Municipal Assistant Engineer in Zone-I on par with Prabhakar rao, Siva Naga Malleswari and also keeping in view of the orders passed by the Hon'ble High Court in W.P.3314 of 2021, dt:30.03.2022 in the existing vacancies pending disposal of the above Writ Petition.

IA NO: 1 OF 2025

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 petitioner to file an additional affidavit in the interest of justice.

Counsel for the Petitioner : SRI P. V. RAMANA

Counsel for the Respondents: GP FOR SERVICES IV

The Court made the following: ORDER



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

[3506]

THURSDAY ,THE TWENTIETH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

WRIT PETITION NO: 6015/2024

Between:

B.Ramu

...PETITIONER

AND

The State Of Andhra Pradesh and Others ...RESPONDENT(S)

Counsel for the Petitioner:

1.P V RAMANA

Counsel for the Respondent(S):

1.GP FOR SERVICES IV

The Court made the following ORDER:

The present Writ petition is filed for following relief:

*"....issue a Writ, Order or direction more in the of
Mandamus declaring the action of the respondents
in not considering nature the case of the petitioner
for promotions to the post of Municipal Assistant
Engineer treating the petitioner as technical
personnel provided under G.O.Rt.No.595 HMA and
UD, dt 22.09.1977 and not extending the benefits
which was extended in favour of 7 persons treating
them as technical personnel including work*

inspectors i.e., Prabhakar rao, Siva Naga Malleswari and in spite of the orders passed by the Hon'ble High Court in W.P.3314 of 2021 dt 30.03.2022 while implementing the said orders of the Hon'ble High Court for effecting promotion to one Mr.Challa Sreenivasa rao is illegal and violates Article 14, 16 and 21 of the Constitution of India and consequentially declare that the petitioner is entitled for promotion to the post of Municipal Assistant Engineer in Zone-I on par with others and to pass..."

2. When the matter is taken up for hearing, Sri P.V. Ramana, learned counsel for the petitioner, submits that the issue involved in this writ petition is squarely covered by the order dated 30.03.2022 passed by this Court in Writ Petition No.3314 of 2021 and requested to pass a similar order in this writ petition also. The same is not disputed by learned Government Pleader for Services-IV appearing for the respondents.

3. In view of the same, for the reasons alike in the aforesaid order, this Writ Petition is also allowed in terms of the order dated 30.03.2022 passed by this Court in W.P.No.3314 of 2021. There shall be no order as to costs.

4. Registry is directed to attach a copy of the order dated 30.03.2022 passed by this Court in W.P.No.3314 of 2021 to this order.

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

//TRUE COPY//

**Sd/- K. TATA RAO
DEPUTY REGISTRAR**

SECTION OFFICER

To,

1. The Principal Secretary, Municipal administration and Urban Development Dept, State of Andhra Pradesh, A.P. Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Engineer-In-Chief (Public Health), Thadepalli, Guntur District.

3. Superintending Engineer, Public Health Engineering Circle, Seethammadhara, North Extension, Visakhapatnam.
4. One CC to Sri P. V. Ramana, Advocate [OPUC]
5. Two CCs to GP for Services IV, High Court of Andhra Pradesh. [OUT]
6. Three C.D. Copies.

(Along with copy of the order dated.30.03.2022 in W.P. No.3314 of 2021 enclosed herewith)*

Cnr

HIGH COURT

DATED:20/03/2025

ORDER

WP.No.6015 of 2024



**ALLOWING THE W.P.
WITHOUT COSTS**

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

WRIT PETITION No. 3314 of 2021

JUDGMENT

Heard Sri P. V. Ramana, learned counsel for the petitioners and Sri Badra Naga Seshayya A.V, AGP for Services – IV.

2. This writ petition has been filed for the following relief:

“...to issue a Writ Order or direction more in the nature of Mandamus, declaring the orders passed by the 1st respondent in Memo No.982552/C2/2009 dt.12.11.2020 in rejecting the claim for appointment as Municipal Assistant Engineer by transfer while extending the said benefit in respect of 4 persons i.e, 1) K. Bangaru Raju, 2) P. Subbarayudu, 3) P. Alikhan and 4) G Jashuva considering them as technical staff though the petitioner is similarly situated as illegal, arbitrary, discriminatory and violates Articles 14 and 21 of the Constitution of India and contrary to Rule 3 (Method of appointment) provided under A. P. M. E. Service Rules issued in G. O. Rt. No. 595 HMA & UD dt. 22. 9. 1977 and consequently declare that the petitioner is entitled for promotion as Municipal Assistant Engineer from 2019 with all consequential benefits and to pass such order or orders...”

3. The challenge is to the order vide Memo No.982552/C2/2009, dated 12.11.2020 whereby the petitioner's claim for appointment to the post of Municipal Assistant Engineer has been rejected.

4. The petitioner was appointed as Fitter Mazdoor on compassionate grounds and reported to duty on 11.07.2000. His services were regularized from that date and his probation was declared successful on 10.07.2002. He was promoted as Fitter vide orders dated 03.06.2010. The petitioner passed diploma in Civil Engineering and Environmental Engineering in the year 2005. He considering himself eligible, submitted a representation on 01.06.2019 for promotion by transfer to the post of Municipal Assistant Engineer (Civil), which has been rejected by the impugned order dated 12.11.2020, on the ground that the petitioner's

category of 'Fitter' is not mentioned for recruitment through appointment by transfer in the Andhra Pradesh Municipal Engineering Service Rules, 1977 issued vide G.O.Ms.No.595, HMA & UD Dept., dated 22.09.1977.

5. Learned counsel for the petitioner submits that the petitioner is covered under "such other categories of technical staff "working in any Municipality or Corporation and who are LCE/LEE/LME or LAE holder from recognized institutions or an equivalent diploma or certificate of any other recognized institution under Rule 3 of the Rules 1977.

6. Learned counsel for the petitioner further submits that one person, by name, K.Bangara Raju, was promoted from the post of Fitter, as Municipal Assistant Engineer on 24.05.2008 and he is presently working as such. Another person, by name, A. Subba Raidu, was also promoted from the post of Fitter, as Municipal Assistant Engineer (Civil) on 22.12.2007 and he retired as such in the year 2015. Besides, two other persons, namely, P. Alikhan & G. Jashua were also promoted from the posts of Filter Bed Operator, as Municipal Assistant Engineer (Civil) in the year 2006 and 2007 respectively and one more Fitter, by name Smt. M. Siva Naga Malleswari, was appointed by transfer from the category of Work Inspector to the post of Municipal Assistant Engineer in the year 2018. She was reverted in the year 2020 but again she was given promotion on 29.09.2021 as Municipal Assistant Engineer (Civil) by recruitment by transfer. He submits that the petitioner has been discriminated though persons similarly situated to the petitioner are granted recruitment by transfer from the post of Fitter to the post of Assistant Engineer (Civil).

7. Learned Government Pleader for Services – IV, supports the impugned order by submitting that the category of 'Fitter' is not included in Rule 3 of the Andhra Pradesh Municipal Engineering Service Rules,

1977, and consequently, there is no illegality in the rejection of the petitioner's claim for such recruitment by transfer.

8. I have considered the submissions advanced by the learned counsels for the parties and perused the material on record.

9. Rule 3 of the Andhra Pradesh Municipal Engineering Service Rules, 1977 reads as under:

Rule - 3. Recruitment.--

"Recruitment to the several categories in this service shall be made as follows:-

(a) **Municipal Assistant Executive Engineers:-**

By recruitment by transfer of Municipal Assistant Engineers possessing a degree in Engineering and with a minimum of 3 years service provided that if qualified and suitable candidates for appointment by transfer are not available appointment will be made by direct recruitment.

Note:- A Municipal Assistant Engineer who is appointed by transfer as Municipal Assistant Executive Engineers shall be entitled to count 1/3rd of the service rendered as Municipal Assistant Engineer before appointment as Municipal Assistant Executive Engineer subject to a maximum of 4 years for the purpose of computing the service as Municipal Ex-Assistant Executive Engineer which will render him eligible for consideration to direct recruitment as Deputy Executive Engineer in Andhra Pradesh Public Health and Municipal Engineering Service:

Provided that for any special reasons, Municipal Assistant Engineers with less than 3 years of service can be considered for appointment as Municipal Assistant Executive Engineers without the benefit of any weightage for the past service.

(b) **Municipal Assistant Engineers:**

(i) **By Direct recruitment.**

(ii) **By recruitment by transfer from among Draughtsman, Electricians, Public Works Maistries or such other categories of technical staff working in any Municipality or Corporation and who are LCE/LEE/ LME/or LAE holders of recognised institutions or an equivalent diploma or certificate of any other recognised institution and who are approved probationers in the category from which they are recruited.**

Note 1:- The ratio for direct recruitment and recruitment by transfer for the category of Assistant Engineers shall be 1:1 if qualified and suitable candidates for appointment are available."

10. A bare perusal of the Rule-3, shows that the method of recruitment to the post of Municipal Assistant Engineer is by recruitment by transfer from among Draughtsman, Electricians, Public Works Maistries or such other categories of technical staff working in any Municipality or Corporation and who are LCE/LEE/ LME/or LAE holders of recognised institutions or an equivalent diploma or certificate of any other recognised institution and who are approved probationers in the category from which they are recruited.

11. So a technical staff of categories other than 'Draughtsman, Electricians, Public Works Maistries is also eligible for appointment subject to fulfilment of other requirements as in Rule 3 (b) (ii).

12. The point for consideration now is if a 'fitter' is so entitled.

13. In para-4 (h) of the writ affidavit, the petitioner has specifically pleaded that the petitioner falls under category of 'technical staff working in the municipal area', and on the strength thereof, it is submitted that the petitioner is eligible for consideration of his case for the post of Municipal Assistant Engineer (Civil). The two examples of K. Bangaru Raju and A. Subba Rayudu, who were working in the post of 'Fitter' like petitioner and were given appointment as Municipal Assistant Engineer (Civil), by transfer, is emphasised.

14. Paragraph-4(h) of the writ petition is reproduced as under:

"The impugned orders are illegal, arbitrary and violates Article 14, 16 and 21 of Constitution of India. It is submitted that as per the Special Rules, i.e, A.P.Municipal Engineering Service Rules issued in G.O.Rt.No.595 HMA & UD, dated 22.09.1977 **the method of recruitment was clearly provided making provision from the category of technical staff working in any municipal area.** I fall under the said category. It is not the case that there is no provision was made in the recruitment rules. There is provision for consideration of technical staff working in any municipality or corporation. I fall under technical staff and there is no dispute in this regard. Similarly, it is a fact that the

same respondent considered appointments of 4 individuals from Fitter and Filter Bed Operators under technical category under the municipalities. One K. Bangaru Raju, A. Subba Rayudu, were considered by transfer as Municipal Assistant Engineer from Fitter category and P. Alikhan and G. Jashuva from Filter Bed Operator by transfer offered appointment to the post of Municipal Assistant Engineer treating them as technical staff. Having extended benefit to 4 persons in the similarly situated circumstances treating them as technical staff the question of rejecting my case for promotion is illegal, arbitrary and unreasonable, void and in violation of Article 14, 16 and 21 of Constitution of India and also discriminatory. It is only to deny my case intentionally, wilfully the said order was passed illegally.”

15. In counter affidavit, the respondents have not denied that the post of 'fitter' is of the category of "technical staff".

16. The impugned order also does not show that the post of 'fitter' does not fall within the category of 'technical staff'.

17. There is nothing on record to show that the post of 'fitter' is not covered under the category of technical staff. On the other hand, the respondents have also not denied that two persons, namely, K. Bangaru Raju and A. Subba Rayudu, working in the post of 'fitter' were given appointment on the post of Municipal Assistant Engineer (Civil), by transfer.

18. In ***U.P.Power Corpn. Ltd. V. Ayodhya Prasad Mishra***¹ upon which reliance has been placed by the learned counsel for the petitioner, the Hon'ble Apex Court held that "equals cannot be treated unequally". The principle of equality before Law flows from Article 14 of the Constitution of India, a fundamental right.

19. The petitioner being similarly situated to the other 'fitters' who were appointed by transfer from the post of 'fitter' to the post of Municipal Assistant Engineer (Civil), cannot be denied equal treatment, only on the

¹ (2008) 10 SCC 139

ground that the petitioner is 'fitter', which category though is not mentioned specifically under Rule 3 (b) (ii), but such post falls in the category of technical staff working in the municipality has not been specifically denied.

20. In view of the aforesaid, this Court is of the considered view that the post of 'fitter' is considered by the respondents to be included in "such other categories of technical staff" under Rule 3 (b) (ii) of the Rules, 1977.

21. The writ petition is allowed and the impugned order is quashed, with the following further directions:-

(i) The 1st respondent is directed by issuance of a Writ of Mandamus to consider the petitioner's case for appointment on the post of Municipal Assistant Engineer, in accordance with law, if the petitioner is otherwise eligible for such appointment, under Rule 3 (b) (ii) of the Rules, 1977 by a reasoned and speaking order, and his case shall not be rejected on the ground that he is 'Fitter'.

(ii) The above exercise shall be done within a period of two months from the date of production of copy of this order before respondent No.1. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

Date: 30.03.2022
Dsr

RAVI NATH TILHARI, J