



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

[3529]

**TUESDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 12576/2021

Between:

1.R.PITCHANNA, S/O R.SUBBANNA, AGED ABOUT 57 YEARS,
STENOGRAPHER GR.I, PRINCIPAL DISTRICT JUDGE'S COURT,
KADAPA, NOW WORKING ON DEPUTATION IN THE COURT OF III
ADDITIONAL DISTRICT JUDGE, RAJAMPET, KADAPA DISTRICT.

...PETITIONER

AND

1.THE REGISTRAR ADMN HIGH COURT OF ANDHRA PRADESH, AT
AMARAVATHI, VIJAYAWADA.

2.THE DISTRICT JUDGE, KADAPA.

3.D S RIYAZ AHMED, S/O NOT KNOWN, STENOGRAPHER (RETD.), VI
ADDL. DISTRICT COURT, KADAPA.

4.S V RAGHAVA SAI KUMAR, S/O NOT KNOWN, STENOGRAPHER
GR.I, NOW WORKING IN 1ST ADDITIONAL DISTRICT JUDGE'S
COURT, KADAPA.

...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 issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus challenging the order, dated 4.10.2018 passed by the 2nd respondent and the consequential order in the appeal, dated

31.03.2021 passed by the 1st respondent rejecting the appeal, without assigning any reasons as illegal, arbitrary and in violation of the principles of natural justice and violation of A.P. Judicial Ministerial Service Rules and A.P. State Subordinate Service Rules and A.P. State Fundamental Rules and Article 21 of the Constitution of India and consequently, to set aside the orders of the respondents-1 and 2 and direct the 2nd respondent to fix the seniority over and above respondents-3 and 4 in the light of Rule 15 of the A.P. Ministerial Service Rules and pass

IA NO: 1 OF 2021

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 direct the official respondents to consider the seniority of the petitioner over and above respondents-3 and 4, in the further promotions, pending disposal of the writ petition and to pass

IA NO: 2 OF 2021

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 receive the additional affidavit in WP. 12576 /2021 and pass

IA NO: 1 OF 2022

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 to delete the name of the 3rd respondent from the cause title in the Writ Petition and all the connected Miscellaneous Petitions and pass

Counsel for the Petitioner:

1.NAVULURU KRISHNA SAI

Counsel for the Respondent(S):

1.P A SESHU

2.P S P SURESH KUMAR

The Court made the following Order: *(per Hon'ble Sri Justice R. Raghunandan Rao)*

The petitioner was initially appointed as an Amin, on 04.01.1991, in the Kadapa District Unit. He was promoted as a Steno-Typist, on 09.07.1991 and his services were regularized, on 01.02.1993 and his probation was declared, on 31.01.1994.

2. The petitioner has now approached this Court, by way of the present Writ Petition, contending that, his seniority has not been properly considered and that, the respondents 3 & 4, who are the juniors to him, have been placed above him, in the Seniority List of Steno-Typist.

3. It is contended that, the 4th respondent, was appointed as a Steno-Typist, on 04.09.1991 and his services were regularized on the same day and his probation was declared, on 03.09.1993. Similarly, the 3rd respondent, is said to have appointed as a Steno-Typist, on 16.07.1991 and his services were regularized on the same day and his probation was declared, on 15.07.1992.

4. The case of the petitioner is that, he was appointed as a Steno-Typist, on 09.07.1991 itself, before the appointment of the respondents 3 & 4 and consequently, he should be placed above them, in the Seniority List.

5. The petitioner would also contend that, he had raised this issue, before the 2nd respondent and sought fixation of Seniority. However, the 2nd respondent, did not consider his case and rejected the request of the

petitioner. The learned counsel for the petitioner would submit that, an Appeal filed against the Order of Rejection, before the 1st respondent also came to be rejected and consequently, this Writ Petition was moved.

6. Heard Sri N. Krishna Sai, learned counsel for the petitioner, Sri P. S. P. Suresh Kumar, learned Standing Counsel appearing for the official respondents and Sri P. A. Seshu, learned counsel appearing for the unofficial respondents.

7. The controversy in the present Writ Petition is whether the Seniority of the petitioner should be fixed from 09.07.1991 when he had been temporarily promoted on *ad hoc* basis to the post of Steno-Typist or from 01.02.1993 when his services were regularized.

8. The respondents relying upon a Judgment of the Hon'ble Supreme Court in the case of ***Sri V. Sreenivasa Reddy & Ors Vs. Government of A.P. & Ors***¹, would contend that, the period of temporary services cannot be taken into account and it is only the service, after regularization, that can be taken into account, for the purposes of fixation of Seniority. The learned counsel for the respondents would rely upon paragraphs 14, 15 & 16, which reads as follows:

“14. It is now well settled law that appointment/promotion must be in accordance with the Rules, direct recruitee takes his seniority from the date on which he starts discharging the duty of the post borne on the cadre while

¹ 1955 Supp (1) SCC 572

a temporary appointee appointed dehors the rules or on ad hoc basis or to a fortuitous vacancy gets seniority from the date of regular appointment.

15. It is settled law by the judgment of the Constitution Bench in *Direct Recruit Class II Engineering Officers' Association v. State of Maharashtra*, [1990] 2 SCR 900, that appointment in accordance with Rules is a condition precedent to count seniority. Temporary or act hoc or fortuitous appointments etc. are not appointments in accordance with the Rules and the temporary service cannot be counted towards the seniority. See *Delhi Water Supply and Sewage Disposal Committee v. R.K. Kashyap*, 1989 Supp (1) SCC 194, *Masood Akhtar Khan v. State of M.P.*, [1990] 4 SCC 24, *D.N. Agrawal v. State of M.P.*, [1990] 2 SCC 553, *State of Tamil Nadu v. E. Paripoornam*, 1992 Supp (1) SCC 420, *Excise Commissioner, Karnataka v. V. Sreekanta*, 1993 Supp (3) SCC 53.

16. In *Keshav Chandra Joshi v. Union of India*, 1992 Supp (1) SCC 272, the seniority was to be counted from the date on which appointment was made to the post in accordance with the rules. The previous temporary service should be considered to be fortuitous. In *Union of India v. S.K.. Sharma*, (1992) 2 SCC 728, this Court held that the approval of the UPSC for continuation in ad hoc post for the purpose of granting pay and allowances, would not amount to regular appointment and ad hoc services cannot be counted for determining seniority by the selection by PSC vide *Vijay Kumar Jain v. State of Madhya Pradesh*, 1992 Supp (2) SCC 95. In *Keshav Chand Joshi* case this Court held that employee would become a member of service only from the date of his appointment according to rules. In *A.N. Sehgal v. Raje Ram Sheoran*, 1992 Supp (1) SCC 304, this Court held that where statutory rules link seniority with confirmation seniority cannot be fixed according to length of service and confirmation to a post borne on the cadre is a condition to get seniority. In *State of West Bengal v. Aghore Nath Dey*, (1993) 3 SCC 371, it was held that if ad hoc service is followed by regular service, the benefit of ad hoc service is not admissible if the appointment was in violation of rules. In *D.N. Agrawal v. State of M. P.*, it was held that seniority cannot relate back to the date of temporary appointment."

9. On the other hand, the learned counsel for the petitioner, would rely upon the judgment of the Hon'ble Supreme Court in the case of ***Delhi Water***

Supply and Sewage Disposal Committee & Ors Vs. R. K. Kashyap & Ors²

and more specifically, paragraph No.26, which reads as follows:

“26. So much as regards to general principle governing seniority in service jurisprudence. There is, however, one other important and fundamental principle which should not be forgotten in any case. The principle of counting service in favour one should not be violative of equality of opportunity enshrined in Articles 14 and 16 of the Constitution. If ad hoc appointment or temporary appointment is made without considering the claims of seniors in the cadre, the service rendered in such appointment should not be counted for seniority in the cadre. The length of service in ad hoc appointment or stopgap arrangement made in the exigencies of service without considering the claims of all the eligible and suitable persons in the cadre ought not be reckoned for the purpose of determining the seniority in the promotional cadre. To give the benefit of such service to a favoured few would be contrary to the equality of opportunity enshrined in Articles 14 and 16 of the Constitution. But if the claims of all eligible candidates were considered at the time of ad hoc appointments and such appointments continued uninterruptedly till the regularisation of services by the Departmental Promotion Committee or the Public Service Commission there is no reason to exclude such service for determining the seniority. Of course, if any statutory rule or executive order provides to the contrary, the rule or order will have supremacy. In the absence of any rule or order the length of service should be the basis to determine the seniority.”

10. Learned counsel for the petitioner would also rely upon another judgment of the Hon'ble Supreme Court in the case of **Sri Ashok Gulati & Ors Vs. Sri B. S. Jain & Ors.**³

11. The Hon'ble Supreme Court in the case of **Delhi Water Supply and Sewage Disposal Committee & Ors Vs. R. K. Kashyap & Ors**, while observing that the period of service in *ad hoc* appointment would also be

² 1989 Supp (1) SCC 194

³ AIR 1987 SC 424 : 1986 (Supp) SCC 597.

taken into account in certain circumstances, had placed a caveat that, such consideration would not arise in the event of any statutory rule or an executive order providing to the contrary.

12. Sri P. S. P. Suresh Kumar, the learned Standing Counsel appearing for the official respondents, would rely upon, the Rule 40 of the Andhra Pradesh Judicial Ministerial Service Rules, 1962 (it was in force during the relevant period).

13. Rule 40 (4) stipulates that any person promoted, on a temporary *ad hoc* basis, shall not be regarded as a probationer in the higher category or be entitled by reason only of such promotion to any preferential claim to future promotion to such higher category. It also stipulates that, if such person is subsequently promoted to the higher category in accordance with these rules, he shall commence his probation, if any, in such category from the date of such subsequent promotion or from such earlier date as the appointing authority may determine.

14. In view of the aforesaid Rule, the principle laid down by the Hon'ble Supreme Court in the case of ***Delhi Water Supply and Sewage Disposal Committee & Ors Vs. R. K. Kashyap & Ors***, would not be available in the present case.

15. In these circumstances, we do not find any reason to intervene in the matter.

16. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

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THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

AND

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No.12576 of 2021

(per Hon'ble Sri Justice R. Raghunandan Rao)

11.11.2025

KPV