

APHC010258932020



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

[3458]

WEDNESDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 17069/2020

Between:

1.M S KOWMUDI, KOWINUDI D/O M B SEKHAR RAO, AGED ABOUT 45 YEARS, OCC UN-EMPLOYEE, RE/ O.D NO.26- 16-62 ,AAKULAVARI THOTA , GUNTUR DISTRICT-522004, A.P.

...PETITIONER

AND

1.THE PRINCIPAL SECRETARY, THE PRINCIPAL .SECRETARY, GENERAL ADMINISTRATION.DEPARTMENT,(GAD) GOVERNMENT OF AP,VELAGNPUDI, AMARAVATHI, GUNTUR DISTRICT.

2.THE SECRETARY, A. P PUBLIC SERVICE COMMISSION GUNTUR DISTRICT.

3.THE COMMISSIONER OF EMPLOYMENT AND TRAINING, GOVT OF AP VELAGAPUDI ANDHRA PREDESH GUNTUR DISTRICT

...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 topleased to pass an order or direction one in the nature of Writ of Mandamus declaring the action of the respondents, particularly.the 3rd respondents not to issued the appointment Order Await of the petitioner Appointment because by the respondents Authority for Consequential declaration that candidates Selected as per the Rule of Reservation and Categorization as per Act 20/2000 are entitled for Appointment and Subsequent Striking Act 20/2000 will not earlier Selection even today The

Apex COURT Issued the Judgment on nr brfore 27-08-2020 with dissection about Act 20/2000 and prospectively by the petitioner is entitled for appointment. in S.C. Category as wholly illegal, arbitrary and violative of Art.14, 15.and 16(4) of the Constitution of India and consequently direct the 3rd respondent to consider the any suitable post to the petitioner with all consequental benefits on per with others at situated Akulavari Thota 1st line Guntur District and pass

IA NO: 1 OF 2020

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 3rd respondent to consider the any suitable post to the petitioner At situated Guntur District pending disposal of the above writ petition and to pass

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 may kindly grant the leave and permit this petitioner (Respondent No. 2 in WP No. 17069/2020) to file the counter affidavit in captioned writ petition for proper adjudication of the matter in the interest of justice and pass

Counsel for the Petitioner:

1.PARTY IN PERSON

Counsel for the Respondent(S):

1.ADDANKI RAMACHANDRA MURTHY N (SC FOR APPSC)

2.GP FOR GENERAL ADMINISTRATION

3.V.VENKATA NAGA RAJU (SC FOR APPSC)

The Court made the following:

ORDER:-

Heard M.S. Kowmudi, party in person and Sri Venkata Nagaraju, learned Standing Counsel appearing for APPSC.

2. Challenging the action of the respondents in not issuing the appointment order to the petitioner in accordance with the Rule of Reservation and categorization as provided under Andhra Pradesh Scheduled Castes (Rationalization of Reservation) Act, (for short 'Act 20 of 2000'), the present writ petition has been filed.

3. Pursuant to the Notification vide Advertisement No.10/1999 dated 28.12.1999 issued by the 2nd respondent calling for applications to fill vacancies in Group-II Services, the petitioner applied for the post of 'Junior Employment Officer' (JEO). After issuance of the Notification vide Advertisement No.10/1999, Act 20 of 2000, was promulgated by the Government of Andhra Pradesh. The petitioner qualified in the written examination that was conducted pursuant to the notification, was called for interview, and was accordingly selected for the post of JEO.

4. It is contended that pursuant to the directions of the 1st respondent, the petitioner attended the certificate verification process and was asked to submit her zonal preferences. The certificates were verified on 19.03.2004, and she also attended the interview on 20.03.2004. It is further contended that the 2nd respondent vide Lr. No.G3/4672/90 dated 30.06.2004 informed the petitioner that she was selected for the post of 'Junior Employment Officer' in the department of Employment and Training in the 3rd respondent's Office. Despite submission of certificates for verification, the petitioner was not issued an appointment order.

5. The Act 20 of 2000 provided for further classification among Scheduled Castes. A challenge was made to the provisions of the Act 20 of 2000, and the same was struck down by the Hon'ble Apex Court as unconstitutional *vide* order dated 05.11.2004. The petitioner contends that the said striking down is only a prospective in nature and cannot be given retrospective effect. The petitioner further places reliance on the clarification orders of the Hon'ble Apex Court dated 25.09.2006 in C.A.No.6578/2000, wherein it was held that the selections and admissions made pursuant to the promulgation of Act 20 of 2000 and prior to the judgment of the Hon'ble Apex Court dated 05.11.2004, striking down the provisions, shall not be affected.

6. In pursuance to the clarification order passed by the Hon'ble Apex Court, the 1st respondent *vide* proceedings dated 01.12.2006, directed all Heads of the Departments, to take necessary action. Placing reliance on the said clarificatory orders of the Hon'ble Apex Court, the petitioner contends that since her selection was prior to the striking down of the provisions of Act 20 of 2000, her case should be considered for appointment as 'Junior Employment Officer'. The petitioner further places reliance on the Constitution Bench judgment of the Hon'ble Apex Court in the case of ***The State of Punjab & Others Vs. Davinder Singh and Others***¹, wherein the sub- classification within the Scheduled Castes, was held to be constitutionally permissible. Consequently, the earlier decision of the Hon'ble Apex Court in

¹ (2020) 8 SCC 1

E.V. Chinnaiah Vs. State of A.P & Others², striking down the provisions of sub-classification amongst the Scheduled Castes, was held as no more a good law.

7. The learned counsel for the petitioner, placing reliance on the said judgment of the Hon'ble Apex Court, argues that since petitioner's appointment was withheld, in the light of the said judgment of the Hon'ble Apex Court, her case should be considered for appointment as 'Junior Employment Officer'.

8. The 2nd respondent filed counter affidavit stating that pursuant to the orders of the Hon'ble Apex Court in C.P.No.820/2017 dated 25.04.2018, the selections were revised in accordance with the conditions made under the notification issued in 1999 and a revised provisional selection list was published on 10.05.2018. Accordingly, Unit Lists were also communicated to the concerned Unit Officers of States of A.P. and Telangana. The petitioner was not shown in the said selection on account of the low merit. It is further contended that the clarificatory orders dated 29.06.2006, issued by the Hon'ble Apex Court would not be applicable to the petitioner's case.

9. Considered the submissions. Perused the record.

10. The 2nd respondent issued a recruitment notification in 1999 for filling vacancies in the executive and non-executive cadres under Group-II services. As per the notification, selection to the executive posts is based on

² (2005) 1 SCC 394

marks secured in the written examination and the interview. After the issuance of the recruitment notification, legislation was enacted by the promulgation of Act 20 of 2000, which introduced categorization amongst S.C. caste. Pursuant to the said S.C. categorization, the petitioner was selected on 30.05.2004, for the post of 'Junior Employment Officer' in Zone III. Subsequently, the S.C. categorization was struck down by the Hon'ble Supreme Court. After striking down the provisions, the Hon'ble Supreme Court vide order dated 25.09.2006 clarified that selections made prior to the date of striking down, *i.e.*, 05.11.2004, shall not be affected. The Government, accordingly, vide a memo dated 01.12.2006, informed all departments of the same.

11. The recruitment notification issued in 1999 was subjected to a long-drawn legal battle and ultimately culminated in 2018 pursuant to the orders of the Supreme Court in Contempt Petition (C) No.820 of 2017. It is contended by respondents that the petitioner's case came up for consideration in the final selection process, however, she was not found to be meritorious amongst the S.C. candidates and, consequently, was not selected.

12. The petitioner relies on order of clarification of the Hon'ble Apex Court dated 25.09.2006 in I.A.No.5 in C.A.6758/2000, to contend that selections made before striking down the provisions of Act 20 of 2000 categorization would not be affected.

13. The petitioner approached this Court after the selection process has been concluded in accordance with the Hon'ble Supreme Court's directions dated 18.02.2015.

14. I am of the view that in the light of the Hon'ble Supreme Court's order of clarification dated 25.09.2006, the petitioner's selection remains valid and the same should not be affected, as clarified by the Hon'ble Supreme Court. However, APPSC did not consider this while implementing the Apex Court's directions in the M. Surendar Reddy's case dated 18.02.2015. In its counter-affidavit, APPSC claims the petitioner was not found meritorious and was not selected. This position is untenable, as the petitioner was selected for the post of 'Junior Employment Officer' when the S.C. categorization was in effect. The Supreme Court clarified that selections that were made before the provisions of Act 20 of 2000 were struck down would not be impacted. Therefore, the Commission should have considered the petitioner's appointment to the post for which she was selected. Assigning the petitioner to general merit among S.C. candidates, despite the Supreme Court's clarification, is not justified. Therefore this Court deems it appropriate to direct the 2nd respondent to appoint the petitioner to the post to which she was selected or to any other suitable post in any of the State Government departments.

15. Accordingly, the 2nd respondent is directed to appoint the petitioner to the post to which the petitioner was selected or to any other suitable post in any of the State Government departments.

16. With the above observations, the Writ Petition is disposed of.
There shall be no order as to costs.

As a sequel, all pending miscellaneous applications shall stand closed.

JUSTICE KIRANMAYEE MANDAVA

Date:04.02.2026

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THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION No.17069 of 2020

Date:04.02.2026

MVK