

[3460]

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

TUESDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX ✓

:PRESENT:

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY ✓

WRIT PETITION NO: 17102 OF 2026 ✓



Between:

B. Krishna Mohan, S/o China Yogaiah, aged about 50 years, Occ.
Prohibition and Excise Inspector On deputation- SEEDAP, SD and T
Department, A.P., Vijayawada, NTR District

.... Petitioner

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary to Government, Revenue (Excise) Department, Secretariat Buildings, Amaravati, Velagapudi, Guntur District -522238
2. The Commissioner of Prohibition and Excise, Mangalagiri, Guntur District, Andhra Pradesh 522503.
3. The Dy. Commissioner (Nodal) of Prohibition and Excise, Kurnool, Kurnool District, Andhra Pradesh - 518001

.... Respondents

Petition under Article 226 of the Constitution of India is filed, 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 a writ of mandamus declaring the action of the respondents in not considering the case of petitioner for promotion as Assistant Prohibition and Excise Superintendent for the panel year 2025-26 despite he was granted notional promotion in the feeder category of Prohibition and Excise Inspector for the panel year 2008-09 w.e.f. 01-09-2008 as the same was approved by the 2nd respondent vide CR. No. 12027/15/2023/CPE/B4-(1) dated 14-03-2024.

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and his services were regularised w.e.f. 01-09-2008 is illegal, arbitrary, unjust, contrary to Rule 33 (c) of A.P. State and Subordinate Rules, 1996 and violative of Article 14 and 16 of the Constitution of India and consequently direct the respondents to consider the case of petitioner for promotion to the post of Assistant Prohibition and Excise Superintendent of Multi Zone II for the panel year 2025- 26 by taking into consideration of his notional seniority fixed in the cadre of Prohibition and Excise Inspector of Zone IV for the panel year 2008-09 w.e.f. 01- 09-2008.

IA NO: 1 OF 2026

Petition under Section 151 CPC is filed, praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to consider the case of petitioner for promotion to the post of Assistant Prohibition & Excise Superintendent of Multi Zone II for the panel year 2025-26 in the ensuing promotions, Pending disposal of WP 17102 of 2026, 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 SMT, KAVITHA GOTTIPATI Advocate for the Petitioner, GP FOR EXCISE for the Respondent Nos.1 to 3, the Court made the following.

ORDER

This writ petition is filed questioning the action of Respondents in not considering the case of the Petitioner for promotion to the post of Assistant Prohibition and Excise Superintendent for the panel year 2025-26 as illegal and arbitrary.

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[Signature]

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The Petitioner was initially appointed pursuant to APPSC Notification No.10/99 and appointed as EO (PR & RD) Department in Panchayat Raj and Rural Development Department and as there were allegations with regard to the appointments under the notification number 10/99 and in pursuance of the order of the Hon'ble Supreme Court in Civil Appeal No.5099 of 2006 and batch dated 25.11.2018, selection list of Appointees was revised by APPSC and a fresh selection list was issued on 10.05.2018.

The Petitioner was re-allotted to Prohibition and Excise Department and was appointed as Prohibition and Excise Sub Inspector. Later, the Petitioner was promoted as a Prohibition and Excise Inspector on 14.03.2024, however, posting orders were not issued to the Petitioner on account of election code. Pursuant to the orders of this Court in W.P.No.13982 of 2024, posting orders were issued on 29.09.2024 and the Petitioner was posted as Prohibition and Excise Inspector.

The next available promotion to the Petitioner is Assistant Prohibition and Excise Superintendent. However, the case of the Petitioner is not been considered as the Petitioner did not complete the two years minimum service as required under A.P.Excise Service Rules. Hence, the present writ petition.

Learned Assistant Government Pleader for Services-II would submit that as the Petitioner did not complete the two years of minimum service as required under A.P.Excise Service Rules, the Petitioner is not entitled for consideration for promotion.

Heard the learned counsel.

Rule 33 (c) of the State and Subordinate Service Rules reads as under:

Rule 33 (c): Notional Service shall be counted for the purposes of 1. Declaration of Probation 2.Computing the qualifying length of service in the feeder category for Promotion to the next Higher Category.



Firstly, as per the above, the notional date of promotion assigned shall be taken into consideration for computing the qualifying length of service for promotion to the next higher category.

A similar view was expressed by this Court in W.P.No.21099 of 2025, which reads as under:

16. *The Hon'ble Supreme Court in Union of India v. K.B.Rajoria¹ in a similar fact scenario where promotion of an individual was questioned on the ground that he did not complete minimum years of service although was given notional promotion from an anterior date, made a distinction between regular service and actual service. The Hon'ble Supreme Court held that by giving notional promotion, the person was actually appointed to the said post from the said date and qualifying service should be counted from the notional date, unless the Rule says otherwise.*

17. The paragraphs 9,10,11,12,and 13 are extracted below for quick reference;

9. *Third, the High Court erred in construing the words "regular service in the grade" as actual physical service. If that were so, then an ad hoc appointee who actually serves in the post could also claim to be qualified to be considered for the post of Director General. The High Court itself held that "ad hoc service rendered by any of the parties would not count towards eligibility".*

10. *Finally, while considering the definition of the word "regular" in the Concise Oxford Dictionary, 9th Edn., the High Court noted that it meant: "(1) conforming to a rule or principle; systematic. (2) harmonious. symmetrical. (3) acting or done or recurring uniformly or calculably in time or manner; habitual, constant, orderly. (4) conforming to a standard of etiquette or procedure; correct; according to convention. (5) properly constituted or qualified; not defective or amateur; pursuing an occupation as one's main pursuit."*

¹ 2000(3) SCC 562

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11. The word "regular" therefore does not mean "actual" and the first question the High Court should have considered was whether the appointment of Krishnamoorti was regular and in accordance with the Rules or it was irregular in the sense that it was contrary to any principle of law.

12. The decision which is somewhat apposite is the case of K. Madhavan v. Union of India where the eligibility requirement was eight years in the grade "on a regular basis". In that case it was held: (SCC p. 575, para 10)"

In our view, therefore, the expression 'on a regular basis would mean the appointment to the post on a regular basis in contradistinction to appointment on ad hoc or stopgap or purely temporary basis."

13. It is nobody's case that the notional promotion granted to Krishnamoorti was "irregular". By giving him notional promotion as Additional Director General with effect from 22-2-1995. Krishnamoorti was in fact regularly appointed to the post on that date.

18. After laying down the principle, the Hon'ble Supreme Court referred to the Rules in question in the said case and held that notional date could be taken as the date for qualifying service. In the present case also, the Rule 7 as extracted above does not mention actual service but only states that the minimum service is (02) years as Tahsildar for consideration for promotion. In the absence of requirement of actual service under the Rule 7, the contention of the Respondents that Petitioner should complete two years of actual service cannot be sustained. The acceptance of contention of the Respondents of 'actual service' would amount to tinkering with the Rule framed under Article 309 of the constitution of India which is impermissible.'

In view of the above, the following interim order was passed:

(i) The Respondents shall consider the case of the Petitioner for promotion to the post of Assistant Prohibition and Excise Superintendent taking the date of notional promotion as 01.09.2008 for



the purpose of determining the qualifying service as required under Rule 2 of the Andhra Pradesh Excise Service Rules.

Post on 11.08.2026.

SD/- Y.SRINIVASU
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. The Principal Secretary to Government, Revenue (Excise) Department, State of Andhra Pradesh, Secretariat Buildings, Amaravati, Velagapudi, Guntur District -522238
2. The Commissioner of Prohibition and Excise, Mangalagiri, Guntur District, Andhra Pradesh 522503.
3. The Dy. Commissioner (Nodal) of Prohibition and Excise, Kurnool, Kurnool District, Andhra Pradesh - 518001(1 to 3 by RPAD)
4. One CC to SRI. KAVITHA GOTTIPATI Advocate [OPUC]
5. Two CCs to GP FOR EXCISE, High Court Of Andhra Pradesh. [OUT]
6. One spare copy

KSR

HIGH COURT

VN, J

DATED:30/06/2026

Post on 11.08.2026.

ORDER

WP.No.17102 of 2026

DIRECTION

