

APHC010474532025



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

[3208]

TUESDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE D RAMESH

WRIT PETITION NO: 24117/2025

Between:

R V Subbarao

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1. AVADESH NARAYAN SANGHI

Counsel for the Respondent(S):

1. GP FOR SERVICES II

The Court made the following:

ORDER:-

This Writ Petition is filed under Article 226 of the Constitution of India seeking to declare the action of the respondent in not considering the case of the petitioner for promotion to the post of Office Superintendent by taking into consideration of his date of promotion as Senior Assistant i.e w.e.f 09.06.2013 as illegal and arbitrary and unconstitutional and consequently direct the respondents to consider the case of the petitioner for promotion to the post of

Office Superintendent in terms of Rule 33 of A.P. State and Subordinate Service Rules.

2. The petitioner was appointed as Junior Assistant on 13.04.1993 on compassionate grounds. As he could not pass the basic test in terms of Rule 16(H) of A.P. State and Subordinate Service Rules as the petitioner has completed 45 years of age. Accordingly, he was exempted from passing the requisite tests. Considering the same, he was promoted to the post of Senior Assistant on 09.06.2013 and his probation was also declared in the said category.

3. As per the rules, the petitioner has to pass revenue accounts tests during the service. Accordingly, he has passed all the requisite tests and fully eligible and qualified for further promotion to the post of Office Superintendent. Accordingly, as he has qualified all the requisite departmental tests and fully eligible to consider for the post of Office Superintendent as per the seniority list instead of considering and effecting the promotion to the petitioner, the 3rd respondent has sought clarification vide proceedings dated 29.08.2025 with regard to the exemption of the individual from passing of departmental tests is in accordance with rules, his services shall be regularized and seniority shall be fixed from the date of joining in the post of senior assistant as per Rule, 33 of A.P. State and Subordinate Service Rules, 1996 (for short, "the Rules, 1996), irrespective of date of passing of departmental test. More specifically Rule 17(b) and 18(b)(ii) of the Rules, 1996 for better appreciation, both the provisions are extracted below:

“17. Suspension, termination or extension of probation:-

(b) In the case of any probationer failing to pass the tests or acquire the prescribed qualifications, the appointing authority may extend his probation to enable him to pass the prescribed tests or acquire special qualifications, as the case may be. Such extension by the appointing authority shall not exceed one year, whether on duty or otherwise in such service, class or category

18. DECLARATION OF PROBATION:

(b) (ii) If no order as referred to in sub-rule (a) is issued within one year from the date of expiry of the prescribed or extended period of probation, the probationer shall, subject to other provisions of these rules, be deemed to have completed satisfactorily his probation with retrospective effect from the date of expiry of the prescribed or extended period of probation and a formal order to that effect may be issued for purpose of record.

Provided that nothing in this sub-rule shall apply to a probationer who has been communicated a memorandum of charges during the prescribed or extended period of probation or who has failed to acquire the special qualifications or to pass the special tests, if any prescribed in the special rules or to acquire such other qualifications, as may be declared by the State Government or by the appointing authority with the approval of the State Government, to be equivalent to the said special qualifications or special tests, within the said period of probation.”

4. Learned senior counsel appeared on behalf of the petitioner has specifically emphasized his arguments that as per Rule 17(b) of Rules, 1996, if the employee failing to pass the test or acquire the prescribed qualifications, the appointing authority may extend his probation to enable him to pass the

prescribed tests or acquire special qualifications, as the case may be. Such extension by the appointing authority shall not exceed one year. A joint reading of Rule 17(b) and 18(b) of Rules, 1996 shows that the authority has to communicate/bring the lapses by way of communication to the employee to enable the probationer to rectify such lapses. The said communication should be before lapse of one year or extend the period of probation. If any such lapses are not communicated, it is deemed declaration of probation.

5. Accordingly, the petitioner's probation has been declared and his name is included in the tentative seniority list of Senior Assistant working in the Zone-III dated 17.06.2024. In the said seniority list, the name of the petitioner stands at Sl.No.10 and the date of promotion to the post of Senior Assistant as mentioned as on 09.06.2013 and the date of declaration of probation is noted as 20.06.2014. Hence, once the declaration of probation is made and regularized the services of the petitioner in the cadre of Senior Assistant from the date of promotion i.e 09.06.2013, the respondents ought not to have sought such clarification vide the impugned proceedings, which is not only contrary to rules but violation of the principles of natural justice.

6. Reply to the said contention, learned Government Pleader appearing on behalf of the respondent-authorities based on the averments made in the counter and based on the circular issued by the Director of School Education dated 25.01.2017, the individuals should pass the departmental tests.

7. If the exemption of individual from passing of departmental tests, is in accordance with rules, his services shall be regularized and the seniority shall be fixed from the date of the joining in the post as per Rule 33 of Rules, 1996 irrespective of date of passing the departmental tests and clarification, such case shall be considered for promotion, if he is fully qualified and eligible for promotion after acquiring all the tests qualified as on the date of the promotion.

8. In the instant case, the petitioner has passed all the requisite departmental tests for promotion to the post of Deputy Inspector in the year 2025 while he was working as Senior Assistant. Accordingly, as per the clarification issued by the Government memo dated 21.05.2022, the exemption is only for one promotion and accordingly he is not eligible for further promotion.

9. Further, the learned Government Pleader has also placed reliance on the clarification issued by the Government vide Memo dated 04.02.2026. Petitioner's case has been considered for promotion to the post of Senior Assistant by granting the exemption. Hence, the petitioner is not eligible for further promotion though he has qualified and brought on seniority list.

10. Considering the rival submissions, the issue involved in this case is that the petitioner has availed the benefits/exemption as per G.O.Ms.No.165 General Administration (SER.C) Department dated 22.04.1997 and promoted to the post of Senior Assistant on 09.06.2013. Subsequent to the promotion,

his services have been regularized with effect from 09.06.2013 by declaring his promotion on 26.02.2014 and he has acquired all the departmental tests which are required for further promotion to the post of Office Superintendent.

11. In the said circumstances, the petitioner is fully qualified and eligible and his case has to be considered based on the seniority. Though the respondents have disputed with regard to the regularization of his services by declaring the probation but on perusal of the tentative seniority list also by taking into consideration of the Rule 17(b) read with Rule 8(b)(i)(ii) of Rules, 1996, when there is no material with regard to extension of the probation of the petitioner, it could be safely conclude that as per Rule 18(b)(ii), it is deemed declaration of probation. In the circumstances, once the probation has been declared from the date of his promotion to the post of Senior Assistant, the respondents ought to have considered the case of the petitioner for further promotion if he has passed all the relevant tests which are required to be for the post of Office Superintendent based on the seniority list.

12. With the above observations, the writ petition is disposed of. No order as to costs.

The miscellaneous applications pending, if any, shall also stand closed.

JUSTICE D.RAMESH

Date:17.02.2026

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THE HONOURABLE SRI JUSTICE D RAMESH

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