



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

3459

TUESDAY, THE ELEVENTH DAY OF MARCH  
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HON'BLE SMT. JUSTICE SUMATHI JAGADAM

**WRIT PETITION (AT) No.126 OF 2022**

**Between:**

Challa Kalarani --- Petitioner  
and

The State of Andhra Pradesh,  
Rep. by its Special Chief Secretary,  
Agriculture & Co-operation  
(AGRL.IV) Department,  
Secretariat, Velagapudi,  
Guntur District and 3 others. --- Respondents

Counsel for the petitioner : Sri M. Vijay Kumar, Sr. Counsel,  
Rep. Sri C.L.N. Gandhi

Counsel for the respondents : Learned Government Pleader  
for Services-II

The Court made the following **ORDER**:

The Writ Petition is filed by the petitioner seeking to declare the action of the 2<sup>nd</sup> respondent in rejecting the request of the petitioner for pay fixation with effect from 07.02.2009 and for considering her seniority on par with other Agricultural Extension Officer's (AEO) recruited in 2009 is discriminatory, arbitrary, illegal and against the fundamental rights guaranteed under the Constitution of India and consequently set-aside the

impugned proceedings of the 2<sup>nd</sup> respondent, dated 13.12.2018, and further direct the respondents to consider the petitioner's case on par with other direct recruit AEOs, consider her case for promotion as Agricultural Officer on par with other direct recruits of 2009 and to fix the pay of the petitioner from the date of Notification and sanction increments as per the order of this Court in Writ Petition No.32416 of 2012, dated 01.05.2018.

**Brief facts of the case:**

2. The petitioner was born on 15.07.1975. She was just short of attaining the age of 34 years as on 01.07.2009. As she passed requisite B.Sc., degree in Agricultural Science, she applied for the post of Agricultural Extension Officer Grade-II through Direct Recruitment.

3. The petitioner filed O.A.No.3190 of 2009 before the Andhra Pradesh Administrative Tribunal in Hyderabad (hereinafter referred to as 'the Tribunal') to declare the action of the respondent authorities in prescribing the upper age limit of 33 years in the notification dated 07.02.2009 in violation of G.O.Ms.No.115, dated 29.02.2008, as illegal and to consequently direct the authorities to consider her application by taking the maximum age limit as 34 years.

4. By virtue of *interim* order, dated 19.02.2009, passed by the Tribunal in O.A.No.3190 of 2009, the petitioner was allowed to participate

in the selection process for the post of Agricultural Extension Officer Grade-II. Thereafter, by order, dated 05.06.2009, passed in M.A.No.1700 of 2009, the Tribunal directed the respondent authorities to declare the result of the petitioner. The petitioner secured 73.26% and stood within the roster point No.261 reserved for O.C. (W).

5. O.A.No.3190 of 2009 was clubbed with other connected O.As. and all the O.As were dismissed on 24.04.2012. Questioning the dismissal order, the petitioner filed Writ Petition No.32416 of 2012. The Writ Petition was allowed on 01.05.2018 with the following observation:

“On the above analysis, this Court finds in favour of the petitioner. The writ petition is accordingly allowed setting aside the common order dated 24.04.2012 passed by the Tribunal in so far as it pertained to the petitioner, the second applicant in O.A. No.3190 of 2009. The respondents are directed to give effect to the selection of the petitioner pursuant to the Notification, dated 07.02.2009, and appoint her to the Post of Agricultural Extension Officer Grade-II forthwith.”

6. On 31.05.2018, the 3<sup>rd</sup> respondent in Rc.No.Estt.III/2212/2008 appointed the petitioner as AEO Grade-II. Furthermore, the 3<sup>rd</sup> respondent, *through* proceedings No.Estt.III/2212/2008, dated 05.09.2018, regulated the petitioner's pay under RPS-2015, with effect from her date of joining. On 08.10.2018, the petitioner submitted a representation to the 3<sup>rd</sup> respondent to fix her pay from the date of the

Notification and sanction notional increments from 07.02.2009 in terms of the orders passed in the Writ Petition and further to include her name in the panel year of 2009 and to promote her as Agricultural Officer. The 2<sup>nd</sup> respondent, through Memo No.A5(1)700/2017, dated 13.12.2018, rejected the petitioner's request with the following observation:

“No retrospective promotion can be granted nor can the seniority be assigned on retrospective basis from a date when the employee was not borne in a particular cadre.”

This writ petition is filed questioning the aforesaid proceedings dated 13.12.2018.

7. Learned counsel for the petitioner contends that the respondents have misinterpreted the order passed in Writ Petition No.32416 of 2012, dated 01.05.2018. The Writ Petition was allowed directing the respondents to appoint the petitioner forthwith; the 2<sup>nd</sup> respondent cannot say that the direction was limited to appoint her as Agricultural Extension Officer Grade-II but must also consider her seniority by following Rule 33 of the AP State and Subordinate Service Rules and finally prayed to allow the Writ Petition.

8. Learned counsel for the petitioner, in support of his contentions, relied on a decision of the Hon'ble Apex Court in **Balwant Singh Narwal**

***and others v. State of Haryana and others***<sup>1</sup>. Para Nos.9 and 10 of the judgment are extracted hereunder:

“9. There is no dispute about these general principles. But the question here is in regard to seniority of Respondents 4 to 16 selected on 01.10.1993 against certain vacancies of 1992-1993 who were not appointed due to litigation, and those who were selected against subsequent vacancies. All others from the same merit list declared on 01.10.1993 were appointed on 02.06.1994. Considering a similar situation, this Court, in *Surendra Narain Singh v. State of Bihar* {(1998) 5 SCC 246} held that candidates who were selected against earlier vacancies but who could not be appointed along with others of the same batch due to certain technical difficulties, when appointed subsequently, will have to be placed above those who were appointed against subsequent vacancies.

10. This Court while allowing the appeals by Respondents 4 to 16 by order dated 06.12.1999 made it clear that all the 30 persons recommended by the Commission as per merit list dated 01.10.1993, including Respondents 4 to 16 are entitled to be appointed. The State Government submitted that but for the order dated 04.04.1994 of the High Court, Respondents 4 to 16 would have been appointed on 02.06.1994 itself. The order dated 04.04.1994 was ultimately set aside by this Court and Respondents 4 to 16 who were consequently appointed should not be denied the benefit of seniority. Therefore, the State Government was justified in giving them only notional seniority and placing them immediately below the other 16 candidates selected in the common merit list (published on 01.10.1993) and

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<sup>1</sup> (2008) 7 SCC 728

appointed on 02.06.1994. Respondents 4 to 16 have been given retrospective seniority not from the date of their selection as wrongly assumed by the appellants, but from 02.06.1994 when other selected candidates in their merit list were appointed.”

9. The Learned Government Pleader, appearing on behalf of the respondents, submits that the petitioner was appointed as an Agricultural Extension Officer Grade-II on 31.05.2018. Her pay was fixed based on her date of joining in the said post, and the benefits, as admissible to her, were extended only from that date and not from the earlier date since the petitioner was not in service at all from 07.02.2009. Furthermore, the petitioner worked as a Block Technology Manager (BTM) on a contract basis in ATMA, Nellore, from 2011 onwards, which cannot be considered a regular Agricultural Extension Officer post. Therefore, the rejection order issued by the 2<sup>nd</sup> respondent is appropriate, and the Writ Petition is prayed to be dismissed.

10. This Court has considered the submissions of Sri M. Vijaya Kumar, learned Senior Counsel, assisted by Sri C.L.N. Gandhi, learned counsel for the petitioner on record, and the learned Government Pleader for Services-II, appearing for the respondents and perused the material available on record.

11. The argument put forth by the learned Senior Counsel appearing for the petitioner has considerable force when the selection of the petitioner was found to be in order and was appointed on the basis of the selection that took place *vide* Notification dated 07.02.2009, it is not open for the respondents to deny the benefits to the petitioner, which she is otherwise entitled to on par with her colleagues who were selected along with the petitioner as per the Notification dated 07.02.2009.

12. The only contention of the petitioner was that the maximum age limit should be taken to 34 years. However, the OA filed by the petitioner was clubbed with other O.As and the said issue was not pertinent to the petitioner's cases at all. Hence, such delay cannot be held against the petitioner when determining the benefits she is legally entitled to. The petitioner was unjustly denied increments and seniority, making her junior to all the selected candidates from the same notification. She is also denied her legally entitled pay and increments.

13. Under similar circumstances, this Court in Writ Petition No.32416 of 2012 clearly stated that the petitioner should be appointed as Agricultural Extension Officer Grade-II immediately. The respondent authorities cannot deny the seniority, pay, and increments she deserves with her batch mates, which discriminates against her. Thus, based on the

case facts, it is appropriate to set aside the 2<sup>nd</sup> respondent's proceedings dated 13.12.2018.

14. In ***State of Haryana and others v. Dinesh Kumar***<sup>2</sup>, the Civil Appeal No.1840 of 2007, arising out of Special Leave Petition (Civil) No.1840 of 2007, and the Civil Appeal No.85 of 2008, arising out of Special Leave Petition (Civil) No.14939 of 2007, were decided differently by two co-ordinate benches of the same High Court. Para No.31 of the said judgment is relevant to the instant case and is extracted hereunder:

“31. In the result, the Civil Appeal arising out of SLP(C) No.1840 of 2007 is dismissed, while the Civil Appeal arising out of SLP(C) No.14939 of 2007 is allowed. The Judgment of the High Court dated 22<sup>nd</sup> September, 2005 impugned in the said appeal, is set aside and the concerned respondents are directed to take steps to issue appointment letters to the appellants in the said appeals subject to fulfillment of other conditions by them. It is also made clear that the appellants will be deemed to have been appointed as Constable-Drivers with effect from the date, persons lower in merit to them were appointed. However, while they will be entitled to the notional benefits of such continuous appointment, they will be entitled to salary only from the date of this judgment on the basis of such notional benefits.”

(Emphasis supplied)

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<sup>2</sup> 2008 (3) SCC 222

15. The Hon'ble Apex Court had an occasion to deal with similar situation in ***Sanjay Dhar v. Jammu and Kashmir Public Service Commission and another***<sup>3</sup>, wherein the Hon'ble Apex Court observed that the appellant therein was selected for the post of Munsif in the list prepared by the J&K Public Service Commission in the year 1993 and is protected by the *interim* order of the High Court of Jammu and Kashmir, who secured 3<sup>rd</sup> Rank in the select list and as such the appellant is fully entitled to the relief. His appointment is being calculated with effect from the same date with which the candidates finding their place in the order of appointment, issued pursuant to the select list prepared by the J&K Public Service Commission for 1992-1993 were appointed and deserves to be assigned notionally a place of seniority consistently with the order of merit assigned by the J&K Public Service Commission. The relevant portion of the said judgment is extracted hereunder:

"We have already noticed the learned Single Judge having directed the appellant to be appointed on the post of Munsif in the event of his name finding place in the select list subject to the outcome of the writ petition which order was modified by the Division Bench in LPA staying the order of the learned Single but at the same time directing one vacancy to be kept reserved. The High Court and the Government of J&K (Law Department) were not justified in by-passing the judicial order of the High Court and making appointments exhausting all available vacancies. The right

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<sup>3</sup> (2000) 8 SCC 182

of the appellant, if otherwise sustainable, cannot be allowed to be lost merely because of an appointment having been made wittingly or unwittingly in defiance of the judicial order of the High Court.

For the foregoing reasons the appeal is allowed. The judgment under appeal is set aside. It is directed that the appellant shall be deemed to have been appointed along with other appointees under the appointment order dated 06.03.1995 and assigned a place of seniority consistently with his placement in the order of merit in the select list prepared by J&K PSC and later forwarded to the Law Department. During the course of hearing the learned senior counsel for the appellant made a statement at the Bar that the appellant was interested only in having his seniority reckoned notionally in terms of this order and was not claiming any monetary benefit by way of emoluments for the period for which he would have served in case he would have been appointed by order dated 06.03.1995. We record that statement and direct that the appellant shall be entitled only to the benefit of notional seniority (and not monetary benefits) being given to him by implementing this order. The appeal is disposed of accordingly. The contesting respondents shall pay the appellant costs quantified at Rs.5,000/-."

(Emphasis supplied)

16. Accordingly, in view of the facts and circumstances and the ratio laid down by the Hon'ble Apex Court, as above, the Writ Petition is allowed setting-aside the impugned proceedings of the 2<sup>nd</sup> respondent, dated 13.12.2018, and consequently the 2<sup>nd</sup> respondent is directed to fix the pay of the petitioner on par with other selected candidates, who were appointed as per the Notification, dated 07.02.2009, except the benefit of

back wages for the period the petitioner was not in service (has not worked). Further, the respondents are directed to grant all the benefits as per the entitlement of the petitioner within a period of three (3) months from the date of receipt of a copy of this order. No order as to costs.

Consequently, Miscellaneous Applications pending, if any, shall stand closed.

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**JUSTICE SUMATHI JAGADAM**

Date: 11.03.2025  
DSH