



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



FRIDAY, THE TWENTY FOURTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 35940 OF 2022

Between:

1. Smt. Pandula Gowreeswari, D/o. Pandula Gumpaswamy, aged 44 years, Occ: Record Assistant, A.P.T.W.R. School (G), Kurupam, Vizianagaram, R/o 2-45 Official Colony, Dulikeswara Temple, Kurupam Mandal, Vizianagaram District.
2. Kondagorri Salamma, D/o Thirupathi, aged 45 years, Occ: Attender in A.P.T.W.U.R.J.C(G), Kurupam, Vizianagaram, R/o G.L.Puram, Regidi, Vizianagaram District.
3. Bommali Srinivasa Rao, S/o. Jogayya, aged 43 years, Occ: Lab-Assistant in APTWR School of Excellence, Jogimpeta, Parvathipuram, R/o B.C.S.C. Colony, Balagudaba, Vizianagaram District.

...PETITIONERS

AND

1. The State of Andhra Pradesh, rep., by its Principal Secretary, Department of Tribal Welfare, A.P. secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Andhra Pradesh Tribal Welfare Residential Educational Institutions Society, (Gurukulam), rep by its Secretary, Tadepally, Guntur District.
3. The Principal, Andhra Pradesh Tribal Welfare Upper Residential Junior College(G), Kurupam, Vizianagaram District.

4. The Principal, Andhra Pradesh Tribal Welfare Residential School of Excellence, Jogimpeta, Parvathipuram, Vizianagaram District.

...RESPONDENTS

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 in the nature of Mandamus declaring the action of the respondents not considering Regularisation of the Petitioners services as per the Judgment of the Hon'ble Supreme Court in a case of state of State of Punjab and others Vs. Jagjit Singh and others, as per UmaDevi's Judgment of Apex Court is illegal, arbitrary, contrary to the Judgments of Apex Court in Umadevi's Judgment and also violation of Principal of Natural Justice and also violation fundamental Rights of Constitution of India and consequently direct the Respondents to consider the cases Petitioners for Regularisation their Services from the date their initial appointments in respective posts as they completing more than 13 to 14 years of service in their respective posts in view of the 2nd respondent addressed the Government Lr.Rc.No.B3/1444/2008, dated 04-03-2016 the same is pending consideration before 1st respondent by directing the respondents to considering Minimum Time Scale to the petitioners.

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 direct the respondents to extend the Minimum Time Scale in terms of the Judgment of the Hon'ble Supreme Court in State of Punjab and Others Vs. Jagjit Singh and others (2017 (1) SCC 148), this Hon'ble Court granted Interim Orders dated 27-07-2022 in W.P.No.7546/2022, W.P. No. 23742 of 2018 attached to the regular post in which the petitioners are working, on par with Proceedings R.C. No. APTWRE-11060/5/2019-ADMIN-APTWREIS, dated 22-09-2021, par with Proceedings R.C. No.APTWRE-11060/5/2021-B2, dated

11-02-2022, R.C. No. B3/Suits/W.P. 23743-2018/2018, dated 28-03-2019, pending disposal of the above writ petition.

IA NO: 1 OF 2023

Between:

The Secretary, Andhra Pradesh Tribal Welfare Residential Educational Institutions Society, Mokshasai Plaza, Tadepalli, Guntur District-522501.

...PETITIONER/R2 in W.P.

AND

1. The State of Andhra Pradesh, rep., by its Principal Secretary, Department of Tribal Welfare, A.P. secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Principal, Andhra Pradesh Tribal Welfare Upper Residential Junior College(G), Kurupam, Vizianagaram District.
3. The Principal, Andhra Pradesh Tribal Welfare Residential School of Excellence, Jogimpeta, Parvathipuram, Vizianagaram District.

...RESPONDENTS 1,3 & 4 in W.P./

RESPONDENTS

4. Pandula Gowreeswari, D/o. Pandula Gumpaswamy, aged 44 years, Occ: Record Assistant, A.P.T.W.R. School (G), Kurupam, Vizianagaram, R/o 2-45 Official Colony, Dulikeswara Temple, Kurupam Mandal, Vizianagaram District.
5. Kondagorri Salamma, D/o Thirupathi, aged 45 years, Occ: Attender in A.P.T.W.U.R.J.C(G), Kurupam, Vizianagaram, R/o G.L.Puram, Regidi, Vizianagaram District.
6. Bommali Srinivasa Rao, S/o. Jogayya, aged 43 years, Occ: Lab-Assistant in APTWR School of Excellence, Jogimpeta, Parvathipuram, R/o B.C.S.C. Colony, Balagudaba, Vizianagaram District.

...RESPONDENTS/PETITIONERS in W.P.

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 Vacate the Interim Orders dated 17.11.2022 passed in W.P.No.35940 of 2022 in the interest of justice.

IA NO: 2 OF 2024

Between:

The State of Andhra Pradesh, rep., by its Principal Secretary, Department of Tribal Welfare, A.P. Secretariat, Velagapudi, Amaravathi, Guntur District.

...PETITIONER/R1 in W.P.

AND

1. Pandula Gowreeswari, D/o. Pandula Gumpaswamy, aged 44 years, Occ: Record Assistant, A.P.T.W.R. School (G), Kurupam, Vizianagaram, R/o 2-45 Official Colony, Dulikeswara Temple, Kurupam Mandal, Vizianagaram District.
2. Kondagorri Salamma, D/o Thirupathi, aged 45 years, Occ: Attender in A.P.T.W.U.R.J.C(G), Kurupam, Vizianagaram, R/o G.L.Puram, Regidi, Vizianagaram District.
3. Bommali Srinivasa Rao, S/o. Jogayya, aged 43 years, Occ: Lab-Assistant in APTWR School of Excellence, Jogimpeta, Parvathipuram, R/o B.C.S.C. Colony, Balagudaba, Vizianagaram District.

...RESPONDENTS/

PETITIONERS in W.P.

4. The Andhra Pradesh Tribal Welfare Residential Educational Institutions Society, Gurukulam, Rep. by Secretary, Tadepally, Guntur District-522501.
5. The Principal, Andhra Pradesh Tribal Welfare Upper Residential Junior College(G), Kurupam, Vizianagaram District.

6. The Principal, Andhra Pradesh Tribal Welfare Residential School of Excellence, Jogimpeta, Parvathipuram, Vizianagaram District.

...RESPONDENTS 2,3 & 4 in W.P./RESPONDENTS

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 vacate the interim order dated 17-11-2022 passed in WP No. 35940 of 2022 in the interest of justice.

Counsel for the Petitioners: SRI G SIMHADRI

Counsel for the Respondent No.1:GP FOR SERVICES-II

Counsel for the Respondent No.2: SRI NOOKA JAGANNADHAM

Counsel for the Respondents: SRI RAVI KUMAR PONAKAMPALLI

The Court made the following order:

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO.35940 OF 2022

ORDER:

1. This writ petition is filed under Article 226 of the Constitution of India, to declare the action of the respondents not considering regularization of the petitioners services and direct the respondents to regularise the services of the petitioners from the date of their initial appointments in respective posts also to direct the respondents to consider Minimum Time Scale in terms of judgment of the Apex Court in **State of Punjab and others vs. Jagjit Singh and others¹, Secretary, State of Karnataka and Ors. v. Uma Devi and Ors²**.

2. The petitioners' case in nutshell is that, the petitioners were appointed on contract basis as Record Assistant/Attender/Lab-Assistant working under Respondent Nos.1 to 3 in their respective posts and later converted into outsourcing basis. The respondent authorities are using the petitioners' services as and when necessary for smooth functioning of the administration. It is the case that the respondents never paid any additional

¹ (2017) 1 Supreme Court Cases 148

² (2006) 4 SCC 1

remuneration for allotting other than actual duties. The petitioners never hesitated to do works allotted by the respondents only with a hope to get their permanent employment.

3. It is submitted that, even though the petitioners are eligible and qualified for appointment in the posts to which they were recruited and working, by possessing requisite qualifications and appointed in regular cadre and performing similar duties and responsibilities as being discharged by regular employees, the respondents are denying to grant Minimum Time Scale + Admissible D.A to the petitioners and failed to regularize their services even after completion of more than 13 to 14 years of service. Despite the petitioners discharging their duties in the respective posts on par with the regular employees, the respondents did not regularize their services and finally, denied to extend the regular time scale to these petitioners, inspite of their representations contrary to the law declared by the Apex Court and also failed to extend the time scale in terms of the principles laid down by the Apex Court in **State of Punjab v. Jagjit Singh and others** and **State of Karnataka and Ors. v. Uma Devi and Ors** (referred supra), thereby, the action of the respondents is illegal,

contrary to law and violative of Articles 14, 16, 21 and 39(d) of the Constitution of India and requested to grant the relief as stated supra.

4. Whereas, Respondent Nos. 1 & 2 filed counter affidavit, while denying material allegations, inter alia, contending that, regularization of services of these petitioners and to grant consequential benefits to the petitioners is not permissible under law, as they are not entitled for regularization and that they are not engaged by the respondents at any point of time, as such, question of regularization of their services, as claimed by the petitioners does not arise. On this ground alone, the petition is liable to be dismissed.

5. Then Respondent Nos. 1 & 2 further contended that, the services of Lab-Assistants, Cooks, Kitchen Helpers, Ayas, & MPWs are not needed during Summer holidays and the Principals concerned are utilizing the services of Record Assistant/Junior Assistant/Senior Assistant for certain days only and thereafter their services are dispensed with and renewed afresh for the next and succeeding academic year again based on the need and necessities, therefore, there is no continuation of services in respect of the petitioners. The petitioners were not appointed in regular process, their services were engaged as per the need of respective

institutions as a stop gap arrangement. The Gurukulam Authorities have assumed the cut-off date for acquiring the information of contract Non-Teaching Staff working in Gurukulam institutions as 30.09.2008 for submitting the proposals to Government for Regularization/Implementation of Minimum Time Scale of Pay to the contract employees. Thus, the non-teaching employees appointed on or after 30.09.2008 were treated as outsourcing employees. A total number of 82 non-teaching staff migrated as outsourced staff, among which the petitioners are also included, as such, the petitioners have been rendering their services on outsourcing basis as on the date of filing the writ petition and accordingly, remuneration is being paid to the petitioners as per the G.O.Ms.No.7 through Andhra Pradesh Corporation for Outsourced Services (APCOS).

6. It is submitted that, the petitioners were engaged on contract/outsourcing basis only but not on regular basis. Initially, their appointments were made temporarily for a period of one year and thereafter, it was being renewed afresh every academic year and utilized as per need of the institutions. Even though their services are being utilized on renewal basis, allowances viz DA, HRA and CCA cannot be granted to them on par with regular employees who are appointed by duly following

the procedure of recruitment rules assigned to the respective post they hold.

7. It is submitted that, suppressing the above said facts, the petitioners filed the writ petition seeking regularization of their alleged service though the petitioners are not entitled for regularization as their services were initially engaged on contract basis and later migrated to outsourced services, as such question of regularizing their services does not arise as they were not engaged by the respondents and they are working on outsourcing basis through the third party agencies and they were being paid their remuneration on honorarium basis only. Thereby, the alleged relationship of employee and employer is not existing between the petitioner and Respondents and consequently they are not entitled either for extension of minimum time scale or regularization of their services in the respondents and requested to dismiss the writ petition.

8. During hearing, Sri G. Simhadri, learned counsel for the petitioners contended that the services of these petitioners were engaged on temporary basis. Even the petitioners were transferred and entered into fresh contracts from time to time. The contracts of the petitioners were

extended from time to time. But, the respondents did not enhance the remuneration payable to these petitioners from time to time. However, refused to extend the regular time pay scale payable to the similarly situated persons and also refused to regularise their services. Learned counsel for the petitioner contended that, the action of the respondents is illegal, arbitrary and contrary to the principles laid down by the Apex Court in **State of Punjab v. Jagjit Singh and others** and **State of Karnataka and Ors. v. Uma Devi and Ors** (referred supra).

9. Learned counsel for the petitioners contended that, when the petitioners were appointed as Record Assistant, Attender and Lab Asistant on contract basis after following necessary selection process for appointment of regular employee in the existing vacancies, they are entitled to claim absorption into services in terms of the principle laid down by the Constitutional Bench of the Hon'ble Apex Court in **State of Karnataka vs. Umadevi** (referred supra) and requested to direct the respondents to regularize the services the petitioners.

10. Whereas, learned Government Pleader for Services-II contended that, since the services of the petitioners are engaged on outsourcing basis from APCOS, but not on contract basis or temporary or any other basis,

therefore, the petitioners contention that their services are engaged on temporary basis is false.

11. Learned counsel drawn attention of this Court to Condition No.6 of the Agreement for Employment in Gurukulam on Contract Basis, which it reads as follows:

"The Second Party has agreed that he/she will not claim any right to continue in services of the society of the First Part beyond the period stipulated under the agreement and will not claim any right for absorption in the regular vacancies which are in existence or may arise in future in the society of the FIRST PART."

12. Basing on the above condition, it is contended that the petitioners who have executed the Agreement for employment in the Gurukulam on Contract basis, they cannot claim for absorption in regular vacancies existing at that point of time during subsistence of the agreement or in future. Since the agreement is undertaken and signed by the petitioners, that they will not and shall not claim any right for absorption in regular vacancies in future, their right to claim ceased as per the terms and conditions of the agreement.

13. Further, it is contended that, at the time of engaging their services, in the agreement, it was categorically stated that the engagement was only on contract basis. Specific contract agreement was entered with the petitioners and there was no mention in the contract agreement that their services would be regularized in future and more so the duration of agreement was only for specific period and later renewed from time to time. The petitioners accepted the terms and conditions of the contract and joined the service agreeing that they will not claim any right to continue in service in the respondents institutions beyond the stipulated period. The petitioners have also agreed that they will not claim any right for absorption in the regular vacancies that may arise in future in the respondents institutions. The Government has hired the petitioners only due to lack of manpower and need arising out of exigency and that does not mean that the petitioners have right to claim regularization. In case of existence of necessary circumstances, the Government has a right to appoint contract/outsourcing employees or casual labour for various projects, but such persons cannot claim any right to regular employment on absorption. Such temporary/contrary employee working for various schemes as outsourcing employees cannot claim absorption/regularization as they

knew that they were appointed temporarily as mentioned in the agreements. The Government did not give any assurance of regularization without regular recruitment process being followed under the State Government, as such there is no violation. The petitioners are working due to a particular requirement and not against the sanctioned post, as such they cannot claim for regularization of services as a matter of right solely on the ground that they are working for several years. Regularization of services is an exception and is a matter of policy of the Government. As the petitioners were never appointed in any of the sanctioned posts created by State, they are not eligible and entitled for regularization and requested to dismiss the writ petition.

14. Considering rival contentions and perusing the material available on record, the point that arises for consideration are:

a. Whether the petitioners are eligible to be considered for regularization of their services from the date of their initial appointments in the respective posts?

b. Whether the petitioners are eligible to be considered for Minimum Time Scale?

POINT No.1

15. During pendency of the writ petition, an interim direction was passed by this Court on 07.11.2022, directing the respondents to examine whether the petitioners are discharging same duties and responsibilities attached to the post of Record Assistant, Attender, Lab Assistant respectively and qualified to hold the regular post and if these two parameters are satisfied to grant minimum time scale of pay, within four weeks.

16. The petitioners were appointed on fixed tenure of one year at a time; their services were terminated notionally for a cosmetic one day break to create appearance of the termination of the appointment immediately followed by fresh appointment letter issued for next year. This practice has been continuing for a period of over the last one decade. It is an admitted fact that the persons so appointed are holding the same qualification, if not better, than persons holding permanent posts. They are also performing the same functions on part with regular employees. It is also undisputed that all the petitioners have rendered satisfactory service.

17. The petitioners have pointed out that the essential qualifications as well as the mode of selection was identical to the manner in which others

were appointed and thus apprehended denial of regularization of their services in a arbitrary manner on the basis of a condition incorporated in the terms and conditions of the contract initially in the appointment letter which enables the respondents to prohibit the petitioner from claiming any right for absorption in regular vacancies and later shifting the petitioners to outsourcing basis is contrary to public policy being a statutory authority of the State. This writ petition was filed for the reason that the respondents are not considering the cases of the petitioners for regularization of their services and even not according minimum time scale.

18. It is also the case of the petitioners that they had have been discharging the duties and responsibilities attached to the post of Record Assistant, Attender and Lab Assistant workers without the aid of any order from any Court. It is further stated that the petitioners had been discharging their work to the satisfaction of the concerned and there has been no complaint against anyone regarding their service.

19. The petitioners were appointed against sanctioned post and hence, petitioners are entitled for regularization, in view of the decision reported

in **State of Karnataka v. Umadevi**. For better understanding, Paragraph No.53 of the Judgment in **Umadevi** case is extracted hereunder:

“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa, R.N. Nanjundappa and B.N. Nagarajan and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill

those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further by passing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme."

20. The petitioners before this Court are pressing for a direction to the respondents to extend the benefit of regularization of their services as Record Assistant, Attender and Lab Assistant whereby they could be considered for appointment taking into account the years of their working and experience in the light of their possessing the requisite eligibility qualifications and had been selected by way of due selection process.

21. The contractual appointments of the petitioners were made as per the exigency of the situation. These contractual appointments were for a fixed tenure of period on consolidated remuneration. No difference could

be pointed out on behalf of the respondents to the process of recruitment which was undergone by these contractual recruits from that which is undergone by persons to whom regular appointment is offered under the Rules. It is writ large on the face of the record that the petitioners have actually undergone a procedure akin to that prescribed under the recruitment rules for regular appointment to the posts of Record Assistant, Attender and Lab Assistant respectively, though they have been offered only the contractual appointment.

22. The authorities were aware that the appointment was being made against vacant sanctioned posts and that there was need for the services of the person concerned. For this reason, technical and cosmetic breaks were being given between extensions of the same appointment by a further tenure. Such breaks were in vogue and a strategy was adopted by the statutory authorities for decades to avoid claims of regularization, viz employing "daily wagers", (even adhoc employment and contractual employment. Several such engagements led to regularisation orders which have come to an end by the binding and authoritative Constitutional Bench pronouncement in **Secretary, State of Karnataka & Ors. v. Umadevi & Ors.**

23. No doubt, if the respondents did not make the appointments on contract basis, the institution could not have functioned and the interest of the State would have suffered. This fact clearly shows the importance and need of the services of the petitioners.

24. In **Secretary, State of Karnataka & Ors. v. Umadevi & Ors**, the Hon'ble Supreme Court was concerned with a challenge to matters of absorption, regularization of permanent continuance of temporary, contractual, casual, daily wage or adhoc employees appointed/recruited and continued for long in public employment dehors the constitutional scheme of public employment. In para 52, the Court has declared that no writ of mandamus should be issued in favour of employees notifying the government to make them permanent since the employees cannot show that they have an enforceable legal right to be permanently absorbed or that the state has a legal duty to make them permanent.

25. In Paragraph No.53 of **Uma Devi** case, it is held as follows:

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as

explained in S.V. Narayanappa [(1967) 1 SCR 128 : AIR 1967 SC 1071] , R.N. Nanjundappa [(1972) 1 SCC 409 : (1972) 2 SCR 799] and B.N. Nagarajan [(1979) 4 SCC 507 : 1980 SCC (L&S) 4 : (1979) 3 SCR 937] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify

that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”

26. A distinction between an illegal and an irregular appointment is that, illegal appointment would be of a kind where there exists no sanctioned post and a person is appointed by unknown means of a selection process which hits the very essence of a Recruitment Rule. An irregular appointment would be where a procedure to follow the appointment, not going to the root of the appointment is followed.

27. The qualifications and skills were acquired by the petitioners prior to the appointments on contract basis which have admittedly continued/renewed over a long period of time. As noted by this Court, the petitioners/contract employees have rendered satisfactory service.

28. On perusal of Paragraph 53 of the Judgment in Umadevi's case and Paragraphs 7 to 10 in M.L. Kesari's case, all such employees who are working continuously for ten years or more as on 10.04.2006, without the

aid and protection of any interim order from the Courts or Tribunals and might have been appointed in an irregular manner, would be entitled to be considered for regularization as an one time measure and each department is required to carry out such an exercise for regularization. The other requirement for being entitled to be regularized under the one time measure provided in paragraph 53 of the Judgment in Umadevi's case and explained in paragraphs 7 to 10 of M.L. Kesari's case is that the concerned employee has to be working against a sanctioned post for the aforesaid period of ten years or more without the aid and protection of any interim order from the Courts or Tribunals.

29. In the present case, the services of these petitioners are engaged by Respondent Nos. 1 & 2 against the sanctioned posts, working continuously for more than ten years, without the aid and protection of any interim order from the Courts or Tribunals. Even assuming for a moment that the petitioners might have appointed in irregular manner, they would be entitled to be considered for regularization as a one time measure and the respondents are required to carry out such an exercise for regularization.

30. For better appreciation of the case, copy of the checklist for contract/outsourcing employees in Gurukulam Institutions with respect to the first petitioner, marked as Ex.P-1 is reproduced hereunder:

GURUKULAM CHECKLIST FOR CONTRACT / OUTSOURCING EMPLOYEES WORKING IN GURUKULAM INSTITUTIONS	
Name of the Institution: GURUKULAM VANDANA, Name of the Employee: Smt. SATYANATH	
1. Name of the Contract / Outsourcing employee	1. Smt. SATYANATH
2. Date of the date of initial appointment	2. 01-11-2008
3. Date of joining in the initial institution	3. 01-11-2008
4. Date of joining in the initial institution	4. 01-11-2008
5. Date of joining in the initial institution	5. 01-11-2008
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81. Date of joining in the initial institution	81. 01-11-2008
82. Date of joining in the initial institution	82. 01-11-2008
83. Date of joining in the initial institution	83. 01-11-2008
84. Date of joining in the initial institution	84. 01-11-2008
85. Date of joining in the initial institution	85. 01-11-2008
86. Date of joining in the initial institution	86. 01-11-2008
87. Date of joining in the initial institution	87. 01-11-2008
88. Date of joining in the initial institution	88. 01-11-2008
89. Date of joining in the initial institution	89. 01-11-2008
90. Date of joining in the initial institution	90. 01-11-2008
91. Date of joining in the initial institution	91. 01-11-2008
92. Date of joining in the initial institution	92. 01-11-2008
93. Date of joining in the initial institution	93. 01-11-2008
94. Date of joining in the initial institution	94. 01-11-2008
95. Date of joining in the initial institution	95. 01-11-2008
96. Date of joining in the initial institution	96. 01-11-2008
97. Date of joining in the initial institution	97. 01-11-2008
98. Date of joining in the initial institution	98. 01-11-2008
99. Date of joining in the initial institution	99. 01-11-2008
100. Date of joining in the initial institution	100. 01-11-2008

31. On perusal of the checklist with respect to the first petitioner, in Column No.2 Qualifications at the time of Initial appointment, it is mentioned that the 1st petitioner has passed Intermediate. In Column No.4 pertaining to Caste & roster point against which she is appointed, it is mentioned as S.T (Gadaba), specifying the Roster Point as S.T (W) – 8. In Column No.10 – Whether the employee engaged against the sanctioned post as per G.O, it is mentioned that the petitioner is ENGAGED IN SANCTIONED POST as per G.O.No.6 dated 17.01.2000. Further, in Column No.11, against the query that, whether the individual is qualified to hold the post, it is mentioned that the petitioner is qualified to hold Record Assistant in APTWURJC, Kurupam. Similar checklists were filed as Exs.P-2 & 3 with respect to Petitioner Nos.2 & 3.

32. In the above checklist with respect to the first petitioner, in Column No.2 Qualifications at the time of Initial appointment, it is mentioned that the 1st petitioner has passed Intermediate. In Column No.4 pertaining to Caste & roster point against which she is appointed, it is mentioned as S.T (Gadaba), specifying the Roster Point as S.T (W) – 8. In Column No.10 – Whether the employee engaged against the sanctioned post as per G.O, it is mentioned that the petitioner is ENGAGED IN SANCTIONED POST as

per G.O.No.6 dated 17.01.2000. Further, in Column No.11, against the query that, whether the individual is qualified to hold the post, it is mentioned that the petitioner is qualified to hold Record Assistant in APTWURJC, Kurupam.

33. Though the respondents stated in the counter affidavit that the petitioners were engaged on contract basis, but not against any sanctioned post, it is evident from the checklist that the respondents engaged the petitioners against the Sanctioned Posts as per G.O.Ms.No.6 dated 17.01.2000 and G.O.Ms.No.66 dated 11.05.2016 on contract basis and later converted those posts into outsourcing basis. Thus, the admission of the respondents vide Exs.P-1 to 3, clearly establishes that the petitioners after having qualified, have been engaged into their respective posts against the sanctioned posts by following roster points. Therefore, the petitioners having being qualified in duly sanctioned vacant posts and are working for more than ten years without intervention of orders of the Court, are entitled for regularization of their services, as a onetime measure. Accordingly, Point No.1 is answered.

POINT No.2

34. Though an interim direction was issued by this Court directing the respondents to examine whether the petitioners are discharging same duties and responsibilities attached to the post of Junior Assistant, Office Subordinate and Lab Attender respectively and qualified to hold the regular post and if these two parameters are satisfied, to grant minimum time scale of pay, conveniently the respondents did not state in the counter affidavit as to whether petitioners are discharging same duties and responsibilities of a regular employee, for the reasons best known to them.

35. Respondent No.2, in his counter affidavit stated that, since a note was submitted to the Government to accord permission to bring 82 members back to contractual services, as their services were engaged initially on contract basis and later migrated to outsourced services to accord permission to extent Minimum Time Scale of Pay, as one time settlement of the issue, the petitioners in the present writ petition have also been included in the note submitted to the Government and soon after receipt of instructions issued on the matter by the Government, Minimum Time Scale shall be extended to the petitioners as per the instructions

received along with similarly situated persons working in the respondent society. Therefore, in view of the clear and categorical admission by Respondent No.2 that the petitioners would be extended Minimum Time Scale along with the similarly situated persons working in the respondent society.

36. Minimum Time Scale issue was already considered by the Hon'ble Apex Court in **Jagjit Singh** case as to whether temporary employees viz, daily wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and likewise) are entitled to the minimum of the regular pay scales on account of their performing the same duties which are discharged by those engaged on regular basis against the sanctioned posts. The Hon'ble Apex Court held that the temporary employees are entitled to draw wages at the minimum of pay scales which are applicable to the regular employees holding the same post, as long as they continue in service. However, Respondent No.2 has clearly admitted in the counter affidavit that the petitioners would be considered for Minimum Time Scale. Therefore, the petitioners are entitled for Minimum Time Scale. Accordingly, Point No.2 is answered.

37. In view of the foregoing discussion, this Court finds that it is a fit case to allow the writ petition by issuing Writ of Mandamus, directing the respondents to consider regularization of the petitioners services from the date of their initial appointments in respective posts as per the judgments of the Hon'ble Apex Court in **State of Punjab v. Jagjit Singh and others** and **State of Karnataka and Ors. v. Uma Devi and Ors** (referred supra) and also to consider Minimum Time Scale to the petitioners, in view of admission made by Respondent No.2.

38. In the result, writ petition is allowed with the following directions:

- (a) The respondents/authorities are directed to verify the credentials of the petitioners and arrive at a decision, since they are working against sanctioned posts and if they are working for more than ten years and whether they are continuing in service pursuant to any interim order from any Court or Tribunal. In the event, it is found that the above condition is satisfied in respect of any of the petitioners, their services are to be regularized from the date of initial appointment, against the sanctioned post, as and when

vacancy arises, as an one time measure in consonance with paragraph-53 of the Judgment in Umadevi's case.

(b) The respondents are directed to consider Minimum Time Scale to the petitioners, in view of admission made by Respondent No.2.

(c) It is made clear that, in case of regularization, such service is to be taken into account for purposes of leave, pension and increments but not for purposes of reckoning SENIORITY. No costs.

39. Consequently, miscellaneous applications pending if any, shall stand closed.

//TRUE COPY//

Sd/- M SRINIVAS
ASSISTANT REGISTRAR


SECTION OFFICER

One fair copy to the HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA
(For His Lordships Kind Perusal)

To,

1. The Principal Secretary, Department of Tribal Welfare, State of Andhra Pradesh, A.P. secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Secretary, Andhra Pradesh Tribal Welfare Residential Educational Institutions Society, (Gurukulam), Tadepally, Guntur District.

3. The Principal, Andhra Pradesh Tribal Welfare Upper Residential Junior College(G), Kurupam, Vizianagaram District.
4. The Principal, Andhra Pradesh Tribal Welfare Residential School of Excellence, Jogimpeta, Parvathipuram, Vizianagaram District.
5. One CC to Sri G. Simhadri, Advocate [OPUC]
6. One CC to Sri Ravi Kumar Ponakampalli, Advocate [OPUC]
7. One CC to Sri Nooka Jagannadham, Advocate[OPUC]
8. Two CCs to GP for Services-II, High Court of Andhra Pradesh [OUT]
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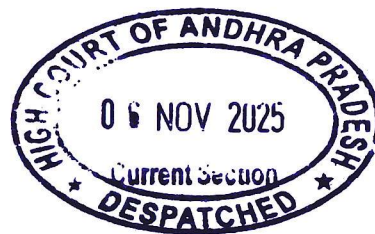
ssb

HIGH COURT

DATED:24/10/2025

ORDER

WP No. 35940 OF 2022



ALLOWING THE W.P. WITHOUT COSTS