



**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

FRIDAY, THE TWENTY FIRST DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NAGESH BHEEMAPAKA

WRIT PETITION NO: 22202 OF 2019

Between:

Palakurthi Laxman Rao, S/o.Alahasingar Rao, Age 55 years, Occ. Unemployee,
R/o.Gantlakunta Village, Pedda Vangara Mandal, Mahabubad District, (Erstwhile
Warnagal District) H.T.No.2110-2192 (S.G.T)

...PETITIONER

AND

1. The State of Telangana and 3 others, Rep.by its Principal Secretary to Govt Education Department, Secretariat, Hyderabad.
2. The Commissioner and Director of School Education, Govt. of Telangana, Hyderabad.
3. The District Educational Officer, Warangal Urban. Warangal District.
4. The District Collector, Warangal (Urban) 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 an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus directing the respondents to consider the case of the petitioner for appointment to the post of Secondary Grade Teacher of D.S.C. 1998 pursuant to the common order passed in W.P.Nos.23253 of 2010 and batch dated 8-11-2011 in the interest of justice.

IA NO: 1 OF 2019

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 consider the case of petitioner for appointment to the



2025:TSHC:8313

post of Secondary Grade Teacher of D.S.C. 1998 pursuant to the common order passed in W.P.Nos.23253 of 2010 and batch dated 8-11-2011 pending disposal of the above writ petition.

Counsel for the Petitioner : SRI J.R.MANO HAR RAO

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following: ORDER

**THE HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA****WRIT PETITION No.22202 of 2019****ORDER:**

Petitioner is a candidate in the District Selection Committee Examination conducted in the year 1998, for selection of Secondary Grade Teachers. A perusal of the writ affidavit discloses that after the written examination, apparently noticing that sufficient number of candidates were not making it to the further selection process, the Government issued GOMs.No.618, Education Department, dated 18.05.1998, lowering the minimum qualifying cut-off marks in the DSC Examination, thereby the petitioner and others came within the zone of consideration for selection and accordingly they were called for interview. However, before issuance of appointment orders to the petitioner and others, the matter ended up before this Court and this Court stayed the selections. It is stated that the reduced qualifying mark was finalized in 17 districts and appointment orders were issued; however, though selections were finalized in Warangal, Khammam and other districts, appointment orders were not issued due to stay granted by this Court. The Government filed Special Leave Petition before the Hon'ble Supreme Court, and the apex Court ultimately allowed the special leave petitions, and set aside the judgment of this Court. It is contended that pending proceedings before the Supreme Court, though the appointees basing on pre-revised criteria were allowed to continue; after the judgment of the Hon' ble Supreme Court, the petitioner and others were entitled to issuance of appointment orders.

It is stated that applications were filed before the Andhra Pradesh Administrative Tribunal by filing O.As., and the Tribunal directed the Government to review the selections in terms of GOMs.No.618; however,



the Government filed writ petitions, namely W.P.No.23253 of 2010 and batch before this Court and the writ petitions were dismissed by the Hon'ble Division Bench. It is the grievance of the petitioner herein that the Government, is contemplating to implement the judgment only to the extent of the petitioners therein.

It is further stated that in the year 1999, the 3rd respondent-District Educational Officer published a Selection List consisting of 212 candidates, wherein the petitioner figures at serial No.129, and the petitioner secured 60 marks however his candidature has not been considered, but the candidates who scored less than him have been appointed. Petitioner made representations to the respondent Nos.3 and 4 through Grievance Cell requesting to consider him for appointment as Secondary Grade Teacher, but no action has been taken yet. Hence, this writ petition.

2. Heard Mr. J.R.Manohar, learned counsel for the petitioner; and learned Government Pleader for Services-I. Perused the record.

3. It is represented by both the learned counsel that the issue in this writ petition has been the subject matter of adjudication in W.P.No.23253 of 2010 and batch, and the Hon'ble Division Bench of this Court, by Common Order dated 08.11.2011 allowed the writ petitions filed by the petitioners therein (who are Applicants in the O.As before the Tribunal), and dismissed the writ petitions filed by the Government. It is therefore submitted that similar orders may be passed in the present writ petition.

4. Having considered the respective submissions and perused the record, it may be noted that the Hon'ble Division Bench had, in W.P.No.23253 of 2010 and batch, adjudicated the issue relating to the selection of Secondary Grade Teachers under DSC-1998 notification, and the grievance espoused

herein is squarely covered by the Common Order dated 08.11.2011 passed in that batch of writ petitions. The operative portion of the Common Order dated 08.11.2011 reads as follows:

"For the aforesaid reasons, the judgment of the Tribunal dated 18.7.2008 in O.A.Nos.8391 of 2005, 587 and 146 of 2006 is set aside and Writ Petition Nos.24416 of 2009, 4287 and 17730 of 2010 are allowed. The petitioners herein shall also be entitled to same benefits as applicants in O.A.Nos.355 of 2006 and batch, in whose favour the judgment of the Tribunal dated 4.12.2009 was pronounced and which has been upheld by us today herein.

In the result, W.P.nos.24416 of 2009, 4287 and 17730 of 2010 are allowed and W.P.Nos.23253, 23254, 23255, 23256 & 23257 of 2010 are dismissed respectively as above, but in the circumstances without costs."

5. Accordingly, this writ petition is allowed in the light of the Common Order dated 08.11.2011 in W.P.No.23253 of 2010 and batch. No costs. Miscellaneous petitions pending, if any, shall stand closed.

SD/-K. SREE RAMA MURTHY
DEPUTY REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. The Principal Secretary to Govt Education Department, Secretariat, State of Telangana, Hyderabad.
2. The Commissioner and Director of School Education, Govt. of Telangana, Hyderabad.
3. The District Educational Officer, Warangal Urban. Warangal District.
4. The District Collector, Warangal (Urban) District.
5. One CC to SRI J.R.MANO HAR RAO, Advocate. [OPUC]
6. Two CCs to GP FOR SERVICES I, High Court for the State of Telangana. [OUT]
7. Two CD Copies.

BSK

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Kpr.



2025:TSHC:8313

HIGH COURT

DATED:21/03/2025

ORDER

WP.No.22202 of 2019



**ALLOWING THE WRIT PETITION
WITHOUT COSTS**

(10)

kpe
21/4/25



**THE HON'BLE SRI JUSTICE GODA RAGHURAM
AND
THE HON'BLE SRI JUSTICE G.KRISHNA MOHAN REDDY**

W.P.Nos.23253, 23254, 23255, 23256 & 23257 of 2010

and

W.P.Nos.24416 of 2009, 4287 & 17730 of 2010

COMMON ORDER (per Sri Justice Goda Raghuram)

Writ Petition Nos.23253 to 23257 of 2010 are preferred by the State and other official agencies and instrumentalities who are respondents in O.A.Nos.144, 2962, 6694, 2912 and 355 of 2006, which were allowed by the learned A.P. Administrative Tribunal at Hyderabad (Tribunal) by the judgment dated 4.12.2009.

Writ Petition Nos.24416 of 2009, 4287 and 17730 of 2010 are by the applicants in O.A.Nos.8391 of 2005, 587 and 146 of 2006, aggrieved by rejection of their applications by the order of learned single Member of the Tribunal dated 18.7.2008 on the ground of laches and delay.

Since different results are recorded by the learned Tribunal in the two sets of Original Applications arising out of substantially identical matrix of facts, we consider it appropriate to dispose of this batch of writ petitions by this common order.

Heard the learned Advocate General for the petitioners in the Writ Petitions preferred by the State, its instrumentalities and agencies and Sri J.R.Manohar Rao, Sri K.R.Prabhakar, Sri Krishna Rao Modalavalasa and Sri B.P.Manohar Reddy, learned counsel for several applicants who are either writ petitioners or respondents, as the case may be, herein.

Recruitment to vacant posts of Secondary Grade Teachers (SGT) through the District Selection Committee, 1998 (for short 'DSC 1998') and a series of Government Orders leading to several rounds litigation is the basis for this *lis*.



In G.O.Ms.No.221 Education Department dated 16.7.1994, the Andhra Pradesh Direct Recruitment for posts of Teachers (Scheme of Selection) Rules, 1994 (for short 'G.O. 221 Rules'), were issued in purported exercise of powers under Sections 78 and 99 of A.P. Education Act, 1982; Sections 169(4), 195(4) and 268 of A.P.Gram Panchayats Act, 1994 and invoking the proviso to Article 309 of the Constitution of India. Rule 2(2) of these Rules enjoins that recruitment shall be through a selection process comprising a written test carrying 85 marks and an interview for 15 marks and that the selection shall be on the basis of merit. Rule 13 enjoins that 50 marks out of 85; 45 marks out of 85 and 40 marks out of 85 shall be respective minimum marks for clearing written examination for the unreserved category; Backward Classes; and candidates belonging to Scheduled Castes/Scheduled Tribes, respectively. It is the synoptic position that recruitment to DSC 1998 is governed by the Rules issued in G.O.Ms.No.221. On this there is no dispute.

In G.O.Ms.No.58 Education Department dated 04.3.1998, the schedule for conduct of DSC 1998, was issued. Suffice it to note that the notification for recruitment was specified to be issued on 15.3.1998; the date for conduct of written examination was 19.4.1998 and 20.4.1998; and the date of commencement of interviews was on 01.5.1998.

In G.O.Rt.No.618 Education Department dated 18.5.1998, the State Government notified, in purported exercise of powers conferred by Rule 31 of A.P. State and Subordinate Service Rules, 1996, relaxation of Rule 13(a) of the rules issued in G.O.Ms.No.221 and ordained that the candidates belonging to unreserved, Backward Classes and Scheduled Castes/Scheduled Tribes categories, who secured five (5) marks less than the minimum prescribed in Rule 13(a) aforesaid, shall also be eligible to be called for interview, in the ratio of 1:3 for the posts of Secondary Grade Basic Trainees earlier notified in G.O.Ms.No.58 dated 4.3.1998. These executive orders were issued on the asserted



circumstance that the number of candidates who qualified in DSC 1998 were less than the number of vacancies available.

Be that as it may. Candidates who had appeared in DSC 1998 and who had obtained (the higher cut-off) marks stipulated in Rule 13(a) of the Rules issued in G.O.Ms.No.221, aggrieved by the increased competition consequent on candidates obtaining lesser marks also being qualified for interview on account of issuance of G.O.Rt.No.618 dated 18.5.1998, challenged the validity of G.O.Rt.No.618 before this Court in W.P.No.15463 of 1998 and batch. The orders of the State Government in G.O.Rt.No.618 were challenged on several grounds including that relaxation of the qualifying marks was arbitrary and discriminatory. Suffice it to notice that G.O.Rt.No.618 was not challenged on the ground that it was an executive order and could not transgress the mandate of Rule 13(a) issued in G.O.Ms.No.221, which specified the minimum marks for written examination for eligibility and interview.

Be that as it may, by the judgment dated 16.10.1998 in **MUTHINENI KRISHNA RAO AND OTHERS v. UNION OF INDIA AND OTHERS**^[1], a learned Division Bench of this Court allowed the batch of Writ Petitions challenging the validity of G.O.Rt.No.618. Insofar as G.O.Rt.No.618 is concerned, this Court invalidated the same and declared that any action taken by the State and its Agencies in pursuance thereof is void and *non est* and declared specifically that all selections and appointments made pursuant to reduction of marks (G.O.Rt.No.618) are *set aside*.

At the initial stages in the above litigation, this Court granted orders of *status quo* on the operation of G.O.Rt.No.618. It is stated before us that appointment orders as per the relaxed eligibility criteria specified in G.O.Rt.No.618 were issued in (17) districts, but no appointments pursuant to the relaxed criteria were issued in (6) districts i.e. Khammam, Karimnagar, Warangal, Nalgonda, Kadapa and Ananthapur.



Aggrieved by the judgment of this Court in *MUTHINENI KRISHNA RAO AND OTHERS* (1 supra), the State and other affected individuals preferred Special Leave Petition to the Supreme Court. Initially stay of the judgment of this Court was granted, on 17.12.1998.

During the pendency of the appeals before the Supreme Court, the State issued G.O.Ms.No.27 Education Department dated 19.1.1999 formally amending Rule 13(a) of Rules issued in G.O.Ms.No.221 and ordained that the said amendment would come into force retrospectively with effect from 1.7.1997. It is not stated before us that the amendment issued in G.O.Ms.No.27 was ever challenged.

In G.O.Ms.No.95 Education Department dated 19.3.1999, during pendency of appeals before the Supreme Court, the State issued orders for dealing with the situation consequent on the development earlier referred to. Suffice it to notice that the State directed that candidates declared successfully in the districts of Nalgonda, Warangal, Karimnagar and Khammam, but not appointed as per the revised criteria, shall now be appointed in the existing vacancies, including the non-joining vacancies as per rules subject to the outcome of the Special Leave Petitions pending before the Supreme Court. This order also directed that the candidates appointed on the basis of pre-revised criteria (i.e. Rule 13(a) issued in G.O.Ms.No.221) pursuant to the judgment of this Court in *MUTHINENI KRISHNA RAO AND OTHERS* (1 supra) shall be continued, but pending the outcome of the appeals before the Supreme Court.

By the judgment in *B.RAMANJINI AND OTHERS v. STATE OF A.P. AND OTHERS*^[2], the Supreme Court allowed the appeals filed by the State and others directed against the judgment in *MUTHINENI KRISHNA RAO AND OTHERS* (1 supra); and rescinded the direction given by the High Court.

Predictably, the State constituted a committee to study the future course of action and to examine the fate of successful candidates of DSC 1998, in G.O.Rt.No.583 Education Department dated 21.6.2004.



Eventually the Government issued Memo No.7705/Ser.VII/2004 dated 23.5.2005. Having regard to the uniqueness of this order, we consider it appropriate to extract the same:

"In the circumstances reported by the Director of School Education, Andhra Pradesh, Hyderabad in the reference 4th cited and keeping in view of the opinion tendered by the Advocate General, A .P. High Court, Hyderabad, in the reference 6th cited, Government after careful examination of the matter hereby direct the Director of School Education, Andhra Pradesh, Hyderabad to give preference to the DSC 1998 qualified teachers in their getting selection as Vidya Volunteers, as the question of preparing waiting list and operating the same and providing employment for wait list candidates does not arise at this distance of time".

Suffice it to note that the Government presumed that such of those candidates who qualified in DSC 1998 on the basis of the relaxed eligibility criteria specified in G.O.Rt.No.618, ratified by the amendments issued in G.O.Ms.No.27 who had appeared at the interview and as a consequence thereof were found to have secured higher ranks than candidates who were qualified as per the initial eligibility criteria under Rule 13(a) of G.O.Ms.No.221, were presumed to be candidates outside the zone of selection and in a "waiting list". There is neither factual nor jural basis for this misapprehension by the State, but the Government Orders proceed on that basis.

Challenging the orders issued by the Government in Memo dated 23.5.2005 (supra), candidates who qualified in DSC 1998 under the relaxed eligibility criteria of G.O.Rt.No.618 and G.O.Ms.No.27 filed several O.As. including the Original Applications out of which the present batch of writ petitions arise.

Pursuant to the interim orders by the Tribunal in the O.As., the State issued Memo No.23975/Ser.VII/2005 dated 18.10.2006 rejecting the representations of candidates who had qualified pursuant to the relaxed eligibility criteria. This order of the Government does not however contain any reasons for rejection of the representations.



Out of clutch of O.As. filed challenging the Memo dated 23.5.2005, three Applications i.e. O.A.Nos.8391 of 2005, 587 and 146 of 2006 came to be considered by a learned single Member of the Tribunal who by order dated 18.7.2008 dismissed these Applications on the ground of latches and delay. As already stated, W.P.Nos.24416 of 2009, 4287 and 17730 of 2010 are preferred by the aggrieved applicants against this order of the learned single Member rejecting the O.As.

The other O.As. came up for hearing before another learned single Member who eventually referred the matter for consideration by a learned Division Bench. By the judgment dated 4.12.2009, O.A.Nos.144, 355, 2912, 2962, 6694 and 1125 of 2006 were allowed. No Writ Petition appears to have filed against the judgment of the Tribunal dated 4.12.2009 in O.A.No.1125 of 2006. The five writ petitions filed by the State are directed against the common order of the Tribunal dated 4.12.2009 in the other (5) O.As.

For allowing batch of O.As. by the judgment dated 4.12.2009, the learned Tribunal recorded that in view of judgment of the Supreme Court in *B.RAMANJINI AND OTHERS* (2 supra), the orders of the State Government in G.O.Rt.No.618 stood restored and the applicants are therefore entitled to the benefit under these orders and in particular on account of the decision of the State Government in G.O.Ms.No.95 dated 19.3.1999. The Tribunal succinctly and correctly concluded that as a consequence the selection of candidates who appeared for DSC 1998 must be reviewed in accordance with relaxed criteria specified in G.O.Rt.No.618 dated 18.5.1998. The Tribunal directed that after revising the selections, a fresh list must be prepared to ascertain the eligible candidates for appointment and consequent orders must be issued in compliance with the direction of the Supreme Court and the directions of the State Government in G.O.Ms.No.95 dated 19.3.1999. The Tribunal rejected the contention of respondents that operating the 1998 DSC wait list cannot be untaken at this distance of time. In summation, the Tribunal directed the State, other instrumentalities and



agencies to prepare a revised selection list on the basis of criteria in G.O.Rt.No.618 dated 18.5.1998 and to issue appointment orders to candidates selected in such revised selection list of Secondary Grade Teachers and specified a time frame for execution of its orders.

By the order dated 18.7.2008, a learned single Member of the Tribunal rejected (3) O.As. i.e. O.A.Nos.8391 of 2005, 587 and 146 of 2006 on the substantive ground that the applicants did not agitate their rights in time and they failed to implead other individuals who might be affected by the outcome of the applications, which challenged the Memo dated 23.5.2005 of the State.

On hearing the learned Advocate General and the counsel for respective parties and after careful analysis of the facts and the applicable principles of law, the Court finds no infirmity in the order of the Tribunal dated 4.12.2009 allowing O.As. (subject matter of Writ Petition Nos.23253 to 23257 of 2010) warranting interference in judicial review under Article 226 of the Constitution. During currency of the process of DSC 1998 recruitment, the State issued administrative orders in G.O.Rt.No.618 dated 18.5.1998 relaxing the eligibility criteria for clearing the written examination. As a consequence, candidates who had obtained five marks lesser than the minimum marks stipulated in Rule 13(a) of the Rules issued in G.O.Ms.No.221, in the respective categories of unreserved, Backward Class; Scheduled Castes/Scheduled Tribes also became eligible to appear at the interview, across the State. Of the candidates so considered who became qualified on relaxed eligibility criteria i.e. G.O.Rt.No.618, several were appointed in 17 districts in the State, but in six districts on account of certain administrative exigencies no appointment orders were issued. Though the order in G.O.Rt.No.618 stood invalidated by the judgment of this Court in *MUTHINENI KRISHNA RAO AND OTHERS* (1 supra), this was reversed by the Supreme Court in *B.RAMANJINI AND OTHERS* (2 supra). It is axiomatic that the judgment of a Court unless otherwise ordained relates back to the *lis*. It



is nobody's case that the judgment of the Supreme Court in *B.RAMANJINI AND OTHERS* (2 supra) is prospective in nature.

Consequently, the order of the State Government in G.O.Rt.No.618 dated 18.5.1998 operates from the date of its nativity. These orders were also confirmed by the normative exercise of amendment in G.O.Ms.No.27 dated 19.1.1999 and with retrospective effect i.e., from 1.7.1997. As a consequence of this statutory and litigative dynamics, candidates who obtained marks at the written examination in pursuance of G.O.Rt.No.618 and G.O.Ms.No.217 were legitimately qualified at the written examination and eligible to be considered for interview. There is no escape from this legal position. In fact, the State Government correctly understood this reality when it issued G.O.Ms.No.95 Education Department dated 19.3.1999. However for some obscure reason the executive understanding became muddled after constitution of a committee and the impugned memo dated 23.5.1998 came to be issued, which is contrary to the executive decision taken in G.O.Ms.No.95 Education Department dated 19.3.1999.

On the aforesaid analysis, this Court finds no infirmity in the judgment of the learned Tribunal dated 4.12.2009 allowing the batch of O.As. wherefrom the Writ Petition Nos.23253 to 23257 of 2010 are filed. Accordingly these writ petitions are misconceived, require to be rejected and are accordingly dismissed.

In G.O.Ms.No.95 Education Department dated 19.3.1999 {issued during the pendency of appeals preferred by the State against the judgment in *MUTHINENI KRISHNA RAO AND OTHERS* (1 supra)}, at paragraph 7(5), the State directed that candidates appointed on the basis of pre-revised criteria (pre G.O.Rt.No.618), in pursuance of the High Court judgment in *MUTHINENI KRISHNA RAO AND OTHERS* (1 supra) shall be continued for the present and pending the judgment of the Supreme Court. In the light of this conscious and express decision by the State, the applicants who became qualified and eligible for



appointment pursuant to the relaxed criteria *qua* G.O.Rt.No.618 as sanctified in G.O.Ms.No.27 did not litigate but were awaiting the judgment of the Supreme Court, which eventually reversed the view taken by this Court, by the judgment in *B.RAMANJINI AND OTHERS* (2 *supra*). The reasoning of the learned single Member of the Tribunal that the applications are belated is therefore clearly erroneous and does not logically follow from the sequence of events and the plethora of Government Orders issued by the Government in this meandering the course of litigation. This judgment is also at variance with the view taken by the learned Division Bench of the Tribunal dated 4.12.2009 in an identical matrix of facts and in respect of applicants similarly situated.

For the aforesaid reasons, the judgment of the Tribunal dated 18.7.2008 in O.A.Nos.8391 of 2005, 587 and 146 of 2006 is *set aside* and Writ Petition Nos.24416 of 2009, 4287 and 17730 of 2010 are allowed. The petitioners herein shall also be entitled to same benefits as applicants in O.A.Nos.355 of 2006 and batch, in whose favour the judgment of the Tribunal dated 4.12.2009 was pronounced and which has been upheld by us today herein.

In the result, W.P.Nos.24416 of 2009, 4287 and 17730 of 2010 are allowed and W.P.Nos.23253, 23254, 23255, 23256 & 23257 of 2010 are dismissed respectively as above, but in the circumstances without costs.

GODA RAGHURAM,J

G.KRISHNA MOHAN REDDY,J

DATE: 8.11.2011
DA



2025:TSHC:8313

[1] 1998(6) ALD 378

[2] (2002) 5 SCC 533