APHC010352142022

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3458]**
(Special Original Jurisdiction)

MONDAY,THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 21273/2022

Between:

1. P.MANOZ KUMAR,, S/O.P.DASARADHA RAMAIAH(LATE), AGED ABOUT 54 YEARS, OCC SUPERVISOR (AE) RETIRED, 0/O.THE ENGINEER-IN-CHIEF, PANCHAYAT RAJ AND ENGINEERING DEPARTMENT, VIJAYAWADA, NTR DISTRICT (PREVIOUSLY KRISHNA DISTRICT).

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY TO GOVERNMENT, PANCHAYAT RAJ AND RURAL DEVELOPMENT DEPARTMENT, SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT.
2. THE ENGINEERINCHIEF, PANCHAYATI RAJ ENGINEERING DEPARTMENT, STATE OF A.P., VIJAYAWADA NTR DISTRICT (PREVIOUSLY KRISHNA DISTRICT).

...RESPONDENT(S):

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 topleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent rejected the petitioner claim for sanction of SPP/SAPP scales for 12

years, 18 years and 24 years vide Memo No.SER-II(2)/22356/93, dated 12.01.2022 as highly illegal, arbitrary, discrimination, unjust, improper, contrary to G.O.Ms.No.96, dated 20.05.2011 and G.O.Ms.No.68, Finance Department dated 12.06.2015 apart from violation of Articles 14, 16 and 21 of the Constitution of India and consequently direct the respondents to sanction and release the SAPP-IA for 12 years, SAPP-IB for 18 years and SAPP-II for 24 years, in terms of G.O.Ms.No.96, dated 20.05.2011 and G.O.Ms.No.68, Finance Department dated 12.06.2015 with all consequential benefits and pass

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 pleased to direct the respondents to release and sanction the scales of SAPP-IA for 12 years, SAPP-IB for 18 years and SAPP-II for 24 years, by suspending the impugned Memo No.SER- 11(2)/22356/93, dated 12.01.2022, pending disposal of the main writ petition and to pass

IA NO: 1 OF 2023

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 Pleased to receive the Reply Copy on record by allowing the leave petition in WP no. 21273 of 2022 and to pass

Counsel for the Petitioner:

1. NALLANAGULA LALITHA SREE

Counsel for the Respondent(S):

1. GP FOR SERVICES IV

The Court made the following:

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

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ORDER:-

Heard Ms. Nallanagula Lalitha Sree, learned counsel for the petitioner and the learned Assistant Government Pleader for Services IV, appearing for the respondents.

2. The grievance of the petitioner is against the action of the 2nd respondent in rejecting his claim for grant of Special Promotion Post Scale (SPP) / Special Adhoc Promotion Post Scale (SAPP) Scales under the Automatic Advancement Scheme in the category of Assistant Engineer *vide* Memo No.Ser-II(2)/22356/93, dated 12.01.2022. It is contended that the said proceedings are in violation of G.O.Ms.No.96, Finance (Pay Commission-II) Department, dated 20.05.2011, and G.O.Ms.No.68, Finance (HRM.V) Department, dated 12.06.2015.

3. The brief facts of the case are:-

The petitioner was initially appointed as a 'Supervisor' in the year 1989 in M/s. Allwyn Limited (an A.P. Government Company). The said Company was privatized, and in the process, 1,486 excess employees, including the petitioner, were deployed to various departments. In this regard, the petitioner was posted as a 'Supervisor' in the Panchayat Raj Engineering Department as

per G.O.Ms.No.384, dated 31.03.1993, and G.O.Ms.No.180, dated 28.04.1993. The petitioner was appointed on 03.05.1993 as Supervisor. After rendering service in the said department, he opted for voluntary retirement from service on 31.05.2021.

4. The contention of the petitioner is that there is no promotion channel from the post of Supervisor to the next higher post of ‘Deputy Executive Engineer’ (hereinafter referred to as ‘DEE’). In the light of the same, employees were granted benefits under the Automatic Advancement Scheme by way of an appointment to the Special Promotion Post Scale (SPP) or Special Adhoc Promotion Post Scale (SAPP). The petitioner's claim is that he is eligible for appointment to the Special Adhoc Promotion Post Scale. The eligibility criterion for appointment to the SPP/SAPP Scales is that an employee should have passed the Telugu Language Test and the Departmental Test (Accounts Test for PWD Officers and Subordinates). The petitioner passed SSC in Telugu medium therefore, contends that he is exempted from passing the Telugu Language Test. With regard to the second eligibility condition, namely passing the Departmental Test, he appeared for the test on 11.05.2010 and passed the same. Therefore, he contends that he is eligible for 12 years of SAPP scales from 11.05.2010, by which time he had completed 12 years of his service.

5. The petitioner further contends that he had completed 24 years of service as on 02.05.2017 without receiving any promotion. From the date of his

appointment in 1993, till his retirement, he continued in the same post as ‘Supervisor’. Although various G.Os., were issued in this regard concerning the Automatic Advancement Scheme, the petitioner was denied the said benefits, which, according to him, ought to have been extended to him in terms of G.O.Ms.No.68, dated 12.06.2015, and the recommendations of the 10th Pay Revision Commission, upon completion of 12, 18, and 24 years of service, respectively. Since the respondents denied the benefits, the petitioner submitted a representation on 01.06.2021, followed by further representations dated 25.10.2021 and 01.12.2021.

6. The 2nd respondent rejected the petitioner's claim because the petitioner is not a qualified graduate in Mechanical Engineering, nor does he hold a Diploma in Civil Engineering or Mechanical Engineering. As either of the qualifications is lacking, the 2nd respondent observed that the petitioner is not entitled to promotion to the post of DEE. As he is not eligible for promotion to the post of DEE, he is not entitled for SPP/SAPP scales in the category of Assistant Engineer.

7. The petitioner contends that he never sought any promotion to the post of DEE. The only claim of the petitioner is that after completion of service of 12, 18 and 24 years respectively without any promotion, the petitioner is entitled to the benefit of Special Adhoc Promotion Post and the scales attached. Similarly situated persons were considered for applying the SPP and SAPP Scales and

the same benefit was not granted to the petitioner which is quite discriminating as against the respective G.Os., issued from time to time in the said regard. Thus filed the instant Writ Petition.

8. The learned Counsel for the petitioner relies on the decision of the Hon'ble Supreme Court in the case of ***Amresh Kumar Sinha & others Vs. The State of Bihar and Others,***[1] and a judgment of this Court in the case of ***O. Penchalaiah Vs. The Government of Andhra Pradesh and Others,*** in **W.P. No.32443 of 2023 dated 30.10.2025.**

The Hon'ble Supreme Court in ***Amresh Kumar Sinha & others Vs. The State of Bihar and Others,*** it is observed as under:

> *"20. We have not considered it necessary to deal with the two cases on the basis of which the Single Judge has allowed the writ petitions and granted the benefit of the ACP to the appellants, as we have independently of those two decisions have considered and held that the appellants are entitled to financial upgradation under the ACP Scheme on completion of requisite regular service ignoring the higher qualification prescribed for the next higher post as grant of such benefit is not actually a promotion but only financial upgradation and if the higher qualification is insisted it would frustrate the purpose of the entire scheme."*

And the Coordinate Bench *vide* its order in **W.P.No.32443 of 2023 dated 30.10.2025,** observed as under:

[1] 2023 SCC Online SC 496

> *"13. It is to be noted that for grant of Special Adhoc Promotion Post Scale-IA (12 years) and Special Adhoc Promotion Post Scale–1B (18 years) and Special Adhoc Promotion Post Scale-II (24 years), qualification is not required as there is no avenue of promotion."*

9. The 2nd respondent filed counter affidavit stating that as per the Service Rules issued vide G.O.Ms.No.15, PR&RD Dept., dated 08.01.1999, the qualification prescribed for promotion or appointment by transfer to the post of Deputy Executive Engineer is Bachelor's Degree in Civil/Mechanical Engineering or Diploma in Civil/Mechanical Engineering. It is further stated that as the petitioner is only having Diploma in Electrical Engineering (L.E.E) and Graduation in Electrical and Electronics, as he does not have Diploma in Civil/Mechanical Engineering, he is not entitled for promotion to the post of DEE.

10. It is further contended that an employee, on completion of 24 years of service in a particular post, shall be placed in the scale of the post applicable to the second level promotion post to the original post held by him. This is subject to the condition that he is fully qualified to be promoted to such promotion post as prescribed in service rules and also that such post should belong to the regular line and not outside the regular line. This scale shall be called Special Promotion Post Scale II. In other words, such of the employees who have put in 24 years of service in one post without getting any promotion, shall be considered for

appointment to the Special Promotion Post Scale II, subject to the condition that he is qualified to be promoted to such post as prescribed.

11. Considered the submissions.

12. The 2nd respondent rejected the case of the petitioner on the ground that the petitioner does not have the prescribed qualification for promotion to the post of DEE. The petitioner's claim is for grant of Special Adhoc Promotion Post Scale II. The observation of the 2nd respondent is misplaced. Having regard to the fact that the G.O.Ms.No.96, dated 20.05.2011, provides that in case the Service Rules do not provide for promotion, at second level, the employees on completion of 24 years of service shall be placed in the scale of pay, next above the scale applicable to the Special Promotion Post Scale I-A, called as 'Special Adhoc Promotion Post Scale II. In this regard, it is very relevant to extract the relevant portion of the said GO/Rule for adjudication of the issue.

"7. XXXX

Special Adhoc Promotion Post Scale II *(24 years)*	*(vi)*	*(a)*	*In case, the Service Rules do not provide for promotion of second level, the employee on completion of 24 years of service shall be placed in the scale of pay, next above the scale applicable to the Special Promotion Post Scale I-A. This Scale shall be called Special Adhoc Promotion Post Scale II."*

The above Rule position does not contemplate any prerequisite qualification for entitlement of the benefit of SAPP Scale II.

13. Having regard to the above, placing reliance on the judgment of the Hon'ble Apex Court in the case of ***Amresh Kumar Sinha & others Vs. The State of Bihar and Others,*** and the decision of the Co-ordinate Bench in **W.P.No.32443 of 2023 dated 30.10.2025,** the impugned proceedings of the 2nd respondent in Memo dated 12.01.2022 are set aside and the respondents are directed to consider the case of the petitioner for grant of the Special Adhoc Promotion Post Scale II, within a period of eight (08) weeks from the date of receipt of the order.

14. With the above observations, the Writ Petition is allowed. There shall be no order as to costs.

As a sequel, all pending miscellaneous applications, if any, shall stand closed.

JUSTICE KIRANMAYEE MANDAVA

Date:22.06.2026
MVK

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THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

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Date:22.06.2026
MVK