

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT  
HYDERABAD

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**WRIT PETITION NO. 229 OF 2013**

Between:

Porika Sucharitha

... Petitioner

AND

The Vice Chairman and Managing Director,  
Andhra Pradesh Industries Infrastructure Corporation Ltd.  
and others

... Respondents

DATE OF JUDGMENT PRONOUNCED: 23.07.2024

SUBMITTED FOR APPROVAL:

**HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

1. Whether Reporters of Local Newspapers  
may be allowed to see the judgment? No
2. Whether the copies of judgment may be  
marked to Law Reporters / Journals? Yes
3. Whether His Lordship wish to  
see the fair copy of the Judgment? yes

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**NAGESH BHEEMAPAKA, J**

**\* HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

**WRIT PETITION NO. 229 OF 2012**

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Porika Sucharitha

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The Vice Chairman and Managing Director,  
Andhra Pradesh Industries Infrastructure Corporation Ltd.  
and others

... Respondents

**! Counsel for Petitioner** : Ms. Porika Chandana

**^ Counsel for 7<sup>th</sup> respondent** : Sri L. Prabhakar Reddy

**Cases cited:**

(2017) 4 SCC 797

**HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA****WRIT PETITION No. 229 OF 2013****ORDER :**

Respondents 1 to 4 – Andhra Pradesh Industrial Infrastructure Corporation Limited appointed Respondents 5 and 6 as Managers (Electrical) and (Engineering) without considering the candidature of petitioner, *vide* proceedings dated 23.05.2012. Seeking a direction to Respondents 1 to 4 to set aside the said proceedings, petitioner is before this Court.

2. Petitioner claims to have possessed B.Tech (Electrical and Electronic Engineering) in 2007 with 60.67%. Her case is that she has to be selected to the Post of Manager reserved for ST Women as the originally-selected person viz. Suseela did not turn up to join in the post and she being the next candidate in the waiting list, however, Respondents 5 and 6 were appointed as Manager (Electrical). Petitioner therefore, filed Writ Petition No. 8808 of 2012, wherein this Court passed the order dated 29.03.2012 *directing the respondents to consider the case of petitioner for appointment to the post of Manager (Electrical) reserved for ST women if her name is at serial No.1 in*

*the waiting list, within a period of six weeks from the date of receipt of a copy of this order.* However, the respondent did not implement the said order which prompted her to file Contempt Case No. 725 of 2012. The Contempt Case was closed leaving liberty to petitioner to challenge the order passed by the Respondent, if she is aggrieved by the same.

It is also stated that the official respondents rejected the claim of petitioner *vide* letter dated 23.05.2012 on the sole ground that she is not eligible for appointment to the post of Managing (Electrical) as per G.O. Ms.No. 544, dated 04.12.1998. According to petitioner, the said G.O. was issued in 1998 but Respondents 5 and 6 were appointed in 2010 and the official respondents admitted in Para 5 of the counter filed in Contempt Case that the contention raised by petitioner in Para 11 of her affidavit that one B. Madhu, who is the 1<sup>st</sup> candidate in the waiting list was appointed in the place of Venugopal in SC Category and one Sri M. Dora Babu who was kept in waiting list was appointed in OC category is true, but it related to earlier recruitment of 2008 wherein the waiting list was prepared for the recruitment. The G.O. was issued in 1998 but the above

persons were appointed against G.O.Ms No. 544, dated 04.12.1998. Petitioner's case was not considered only on the sole ground that she is not eligible as per GO Ms.No. 544.

Petitioner contends that appointment of Respondents 5 and 6 is illegal and against the principles of natural justice and G.O.Ms.No.544, dated 04.12.1998 and her case was not considered though the post was reserved for ST (Women). It is stated that both the Central Government and State Government provide special rule of reservation in favour of SCs., STs. for upliftment of downtrodden and since the subject post was reserved for Scheduled Tribe (women), not filling up the post with woman is illegal, arbitrary and against the principles of natural Justice. Hence, the Writ Petition.

3. Petitioner had taken out I.A.No. 3 of 2015 seeking amendment of prayer. By order dated 03.04.2024, the said Application was ordered directing amendment of prayer to the effect that 'rejecting the claim of petitioner vide Lr.No. 53719/PW/APIIC/2010, dated 23.05.2012 as being arbitrary, illegal, unconstitutional and violative of Articles 14, 16 and 21 and consequently, direct the respondents 1 to 4 to appoint

petitioner to the post of Manager (Electrical) in the respondent Corporation’.

4. In the counter-affidavit filed on behalf of the Andhra Pradesh Industrial Infrastructure Corporation Limited by its General Manager, it is stated that Smt. N. Susheela, who was provisionally selected for the post of Manager (Electrical) under ST (women) category did not join duty, hence, petitioner made Application dated 15.06.2011 seeking appointment as such. It is stated that in the present recruitment, pursuant to the notification and interview, no waiting list of the candidates selected has been prepared by the APIIC, since it is observed that there is a clear bar as per G.O.Ms.No.544, dated 04.12.1998 according to which, maintenance and operation of waiting list for the recruitment has been dispensed with in any recruitment including those meant for reserved community/category notified by the Unit Officers and the fall out vacancies, if any, due to relinquishment and non-joining etc., of selected candidates has to be notified in the next recruitment.

It is stated that the Application dated 15.06.2011 of petitioner was also placed before the Board of APIIC held on dated 09.08.2011 and Board also directed to conduct fresh recruitment as per G.O.Ms.No.544, dated 04.12.1998 only. It is also clarified that the appointment of the 6<sup>th</sup> respondent was not in the same recruitment, but it related to earlier recruitment of 2008, when the waiting list was prepared for that recruitment.

5. The 7<sup>th</sup> respondent Telangana State Industrial Infrastructure Corporation was impleaded as per order dated 19.04.2022 in I.A.No. 2 of 2015. The Chief General Manager (AM) (Legal) filed the counter-affidavit stating that after bifurcation of the State of Andhra Pradesh and formation of new State of Telangana and consequent bifurcation of the Corporation, they were impleaded as party respondent. It is stated that representation dated 12.04.2012 of petitioner was considered and through letter dated 23.05.2012, it was informed, since there was no waiting list prepared for the relevant recruitment year in view of G.O.Ms. No. 544 dated 04.12.1998, question of petitioner's name being at serial number 1 of the waiting list does not arise, as such, her request

could not be considered; the Corporation categorically mentioned that selected candidate N. Susheela was issued offer letter under ST women category, however she did not join duty. It was also clarified in the said letter that appointment of Respondents 5 and 6 relate to earlier recruitment years, where waiting list was prepared by the Corporation. She was further informed that the said vacancy would be notified in the next recruitment year as per the aforesaid G.O. The allegation that petitioner's case was not considered to the post of ST-women and Respondents 5 and 6 were appointed in an arbitrary manner is denied.

It is stated further that in view of the bar specified under the above said GOMs. No 544, no waiting lists were prepared for the recruitment in the year 2010. Therefore, the allegation that the name of the petitioner was at Sl. No. 1 of the waiting list is totally incorrect. It is stated that based on the selection, appointment letters were issued to all the selected candidates including Susheela under ST category for the post of Manager (Electrical) with the approval of the competent authority dated 18.02.2011. However the selected candidate



Susheela under ST category as Manager (Electrical) chosen not to join in the said post. As the entire original files relating to the said recruitments for the years 2008, 2009 & 2010 are in the custody of APIIC at Mangalgi. In spite of repeated requests made by the TSIIC for the original file including appointment order of said Susheela the APIIC is not responding. It is stated that petitioner's Application for appointment was also placed before the Board of APIIC held on 09.08.2009, the Board directed to conduct fresh recruitment only as per GOMs No. 544. In 2008 and 2009, the Corporation prepared waiting list of the candidates; in 2008, the selected candidate Venugopal under SC Engineering (Civil) Category has not joined therefore the waiting list candidate at serial number 1-8 Madhu (R6) was appointed as Manager-Engineering (Civil) under SC category. Similarly, in 2009, as the selected candidate under general category has not joined, therefore waiting list candidate at serial number 1, M. Dorababu (R5) was appointed as Manager-electrical under general category.

As per Section 53 of the AP Reorganization Act, 2014 assets and liabilities of the then APIIC were apportioned

between APIIC and TSIIC based upon the population ratio i.e. 58.32% to APIIC and 41.68% to TSIIC. Similarly on the said ratio, employees were also allocated; the 5<sup>th</sup> respondent was allotted to the then APIIC and the 6<sup>th</sup> respondent to TSIIC. There was no recruitment after bifurcation in the TSIIC. The claim of petitioner to the post of Manager (Electrical) under ST quota for 2010 by comparing to the previous years of recruitments i.e. 2008 & 2009 for different categories are totally misconceived, The candidates referred to by petitioner also belong to different categories namely SC and General, whereas petitioner under ST category. In view of the facts and circumstances stated above, there was no waiting list prepared by the Corporation for any category of the posts in 2010, thus the claim of petitioner as waiting list candidate under ST category is untenable and the writ petition is liable to be dismissed.

6. Learned counsel for petitioner Ms. Porika Chandana submits that as per provisos of Section 104 of A.P. Reorganization Act, 2014 this Court has got jurisdiction to entertain the Writ Petition. According to learned counsel, appointments were issued to Respondents 5 and 6 under an

earlier notification though waiting list was done away with, that the vacancy in the post of Manager (Electrical) remained unfilled and that petitioner is the next candidate in merit to be appointed. According to learned counsel, the subject issue is covered by the Judgment of Hon'ble Supreme Court in ***Munja Praveen v. State of Telangana***<sup>1</sup>.

7. Heard Sri L. Prabhakar Reddy, learned Standing Counsel for the 7<sup>th</sup> respondent.

8. Having heard learned counsel on either side, the crisp case of petitioner is that the official respondents rejected her claim *vide* letter dated 23.05.2012 on the sole ground that she is not eligible for appointment to the post of Manager (Electrical) as per G.O. Ms.No. 544, dated 04.12.1998. According to petitioner, the said G.O. was issued in 1998 but Respondents 5 and 6 were appointed in 2010 under an earlier notification though waiting list was done away with and official respondents admitted in Para 5 of the counter filed in Contempt Case that the contention raised by petitioner in Para 11 of her affidavit that one B. Madhu, who is the 1<sup>st</sup> candidate in the

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<sup>1</sup> (2017) 4-SCC-797

waiting list was appointed in the place of Venugopal in SC Category and one Sri M. Dora Babu who was kept in waiting list was appointed in OC category is true, but it related to earlier recruitment of 2008 where waiting list was prepared. The G.O. was issued in 1998 but the above persons were appointed against G.O.Ms No. 544, dated 04.12.1998. Petitioner's case was not considered only on the sole ground that she is not eligible as per GO Ms.No. 544. It is stated that representation dated 12.04.2012 of petitioner was considered and through letter dated 23.05.2012, it was informed, since there was no waiting list prepared for relevant recruitment year in view of G.O.Ms. No. 544, dated 04.12.1998, question of petitioner's name being at serial number 1 of the waiting list does not arise. As stated above, the Corporation through the letter above, categorically mentioned that the selected candidate N. Susheela was issued offer letter under ST women category, however she did not join duty. It was also clarified that appointment of B. Madhu is relating to the earlier recruitment year of 2008, in which year waiting list was prepared by the Corporation. She was further informed that the said vacancy would be notified in the next recruitment year as per the aforesaid G.O.

9. At this juncture, it is pertinent to go through the G.O., on which reliance has been placed by the respondent Corporation. It reads as under:

“ Notwithstanding anything contained in the Andhra Pradesh State and Subordinate Service Rules / Special Rules or ad hoc Rules governing maintenance and operation of waiting list for all the District recruitments for the posts under the State and Subordinate Services and Last Grade Services that are being taken up by various recruiting agencies and also through Employment Exchange, the maintenance and operation of waiting list for all the recruitments shall be dispensed with and the list of candidates approved / selected in any recruitment by any recruiting agency in the State in any department for such posts shall be equal to the number of vacancies notified for that recruitment only including those meant for reserved community / category notified by the unit officers. The fallout vacancies, if any due to relinquishment and non-joining etc. of selected candidates shall be notified in the next recruitment.’

10. A perusal of the G.O. makes it clear that maintenance and operation of waiting list for recruitment has been dispensed with in any recruitment including those meant for reserved community/category notified by the Unit Officers

and the fall out vacancies, if any, due to relinquishment and non-joining etc., of selected candidates has to be notified in the next recruitment. Pursuant to the said G.O., it is stated, the Corporation rejected the case of petitioner *vide* letter dated 23.05.2012. Here, it is to be noted that G.O. was issued in 1998. When it is the case of the respondent Corporation in respect of petitioner for the recruitment that took place in 2010, why they have not implemented the said G.O. in respect of Respondents 5 and 6, though they claim that recruitment is of 2008 and 2009, is not known and there is no explanation forthcoming in that direction. Further, the Corporation stated that waiting list was prepared for recruitment 2008 and 2009, hence, their cases were considered, whereas waiting list was not prepared for 2010 and the question of considering the petitioner's name being at Sl.No.1 does not arise. It is stated that the Application dated 15.06.2011 of petitioner was also placed before the Board of APIIC held on dated 09.08.2011 and Board directed to conduct fresh recruitment as per G.O.Ms.No.544, dated 04.12.1998 only.

11. In this regard, a look at the above-referred judgment makes it evident that the Hon'ble Supreme Court, while dealing with similar circumstances, had categorically held that in the absence of offer of appointment to the successful candidate, claim of the next meritorious candidate shall be considered. The Supreme Court had interpreted the G.O. in such a way that *'the portion of the G.O.Ms. quoted above clearly lays down that there shall be no waiting list and the selection shall be made equal to the number of posts notified. The purpose was that the vacancies arising due to people leaving the posts must be filled up by subsequent selection and not on the basis of a waiting list. It was clarified that after selection of the candidates and after issue of appointment orders, if the candidate fails to join within the stipulated period, that vacancy should be notified again. This portion of the G.O.Ms. admits of only one interpretation that after appointment order is issued and the person appointed does not join, then the vacancy cannot be filled up on the basis of the waiting list or by operating the merit list downwards. This is also clear from clause 9 of the G.O.Ms. which also clarifies that fall out vacancies due to relinquishment or non-joining of the selected candidates may be notified in the*

*next recruitment. This obviously means that the clause will apply after issue of letter of appointment. There can be no relinquishment and non-joining unless an appointment letter is issued.*' On a careful reading of the G.O., this Court is of the view that the G.O. would come into operation only after appointment letters were issued. Further, the Division Bench of this Court in **Government of A.P. v. Ms. Bhagam Dorasanamma** (Writ Petition No. 24944 of 2013) had correctly interpreted the G.O. in the following manner:

“ The process of recruitment starts from the date of notifying the vacancies and attains finality with the act of issuing appointment order, offering the post to the selected candidate. In the absence of reaching the said finality of issuing appointment order in respect of subject vacancy, the question of either relinquishment or non-filing of the same does not arise. The interpretation sought to be given by the authorities for denying appointment to the applicant / 1st respondent herein is contrary to the very spirit and object of service jurisprudence and we find total lack of justification on the part of the petitioner authorities and such action undoubtedly tantamounts to transgression of Part III of the Constitution of India in the event of testing the same on the touchstone of Article 16 of the Constitution of India.”



12. In the case on hand, though it is stated in the impugned order that offer of appointment was issued to the successful candidate, no such proceeding was filed before this Court. Along with the counter-affidavit, the 7<sup>th</sup> respondent annexed copy of relevant extract of note file dated 18.02.2011, wherein it has been noted that 'we have to issue offer of appointment to the selected candidates. Draft offer of appointment along with enclosures is put up. Draft offer of appointment may be approved.' In view of the above settled legal position, the plea that the practice of keeping waiting list has been done away may not be sustainable. Therefore, the contention of Respondents 1 to 4 to the contrary would become untenable that too, after failure on their part to place a copy of the offer of appointment issued to another candidate. Despite several adjournments, the official respondents could not place the same before this Court. According to petitioner, the said reason has been invented by the authorities with a view to deprive her of the legitimate claim for appointment. In the absence of production of the said document, this Court is in full agreement with the contentions canvassed by the learned counsel for petitioner.

13. Appointments given to Respondents 5 and 6 though under a different notification are after issuance of G.O. doing away with the waiting list. Hence, the action of Respondents 1 to 5 is *per se* discriminatory and petitioner is also entitled to have her claim considered similarly and be appointed as Manager (Electrical) in the un-filled vacancy.

14. For the foregoing reasons, the Writ Petition is allowed and Respondents 1 to 4 are directed to appoint petitioner in the post of Manager (Electrical) in the respondent Corporation forthwith. No costs.

15. Consequently, the miscellaneous Petitions, if any shall stand closed.

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**NAGESH BHEEMAPAKA, J**

23<sup>rd</sup> July 2024

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