

**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**

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**WRIT PETITION NO.226 of 2018**

Between:

Rudra Satyanarayana

**...Petitioner**

AND

1. The State of Telangana, rep. by its Principal Secretary, Home Department, Secretariat and two others

**...Respondents**

**JUDGMENT PRONOUNCED ON: 15.03.2023**

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE K.SARATH**

1. Whether Reporters of Local newspapers may be allowed to see the Judgment ? : Yes/No
2. Whether the copies of judgment may be marked to Law Reports/Journals : Yes/No
3. Whether Their Lordship/Ladyship wish to see the fair copy of judgment : Yes/No

**JUSTICE K.SARATH**

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**THE HON'BLE SRI JUSTICE K.SARATH**

**+WRIT PETITION NO.226 OF 2018**

%Dated 15.03.2023

# Rudra Satyanarayana

**...Petitioner**

**AND**

\$ The State of Telangana, represented by its Principal Secretary,  
Home Department, Secretariat, Hyderabad and two others

**...Respondents**

! Counsel for Petitioner : Mr. Prabhakar Bommagani

^ Counsel for Respondents: Learned Assistant Government Pleader  
for Home,

< GIST :

> HEAD NOTE :

**? Cases referred :**

1. (1996) 8 SCC 637
2. (1998) 9 SCC 641
3. 2006 (4) ALD (DB)

**THE HON'BLE SRI JUSTICE K.SARATH**

**WRIT PETITION No.226 of 2018**

**ORDER:**

This Writ petition is filed under Article 226 of Constitution of India seeking the following relief:

*“....to issue a Writ, Order more particularly in the nature of Writ of Mandamus declaring the inaction of the respondent authorities in considering the case of the petitioner for restoration of seniority on par with the 1995 Batch Police Constables along with monetary and other attendant benefit, in spite of repeated visits, as being illegal, arbitrary, unjust and unconstitutional, and to grant such other relief or reliefs.....”*

2. Heard Sri Bommagani Prabhakar, Learned Counsel appearing for the petitioner and the learned Assistant Government Pleader for Home, appearing for respondents.

3. The learned Counsel appearing for the petitioner submits that pursuant to the advertisement for recruitment to the post of Police Constables (Civil) in Khammam District, the petitioner was successful both in physical test held on 26.08.1994 and written examination held on

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11.09.1994 and on being successful he appeared for medical examination on 15.4.1995. Since the fingers of the left hand of the petitioner did not look normal the Superintendent of Police referred the petitioner to the Medial Board, Osmania General Hospital, Hyderabad wherein after thorough examination he was certified as fit for the post of Police Constable.

4. The learned Counsel for the petitioner further submits that despite certifying the petitioner to be fit, the case of the petitioner was not considered for appointment, the petitioner approached the erstwhile A.P. Administrative Tribunal and filed O.A.No.6051 of 1995 and the said O.A was allowed on 17.06.1999 directing the respondents to appoint him as Police Constable. Pursuant to the order of the Tribunal the petitioner was sent for training and was appointed a Police Constable on 29.06.2000 through Proceedings Nos.C.No.853/A1/95/ DO No.119/2000 wherein it was clearly mentioned that the petitioner was

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appeared for selection to the post of Police Constable in the recruitment held in the year 1994-95. The petitioner is entitled for restoration of seniority as well as the monetary benefits on par with the Police Constables appointed in the year 1995, but the but the respondent authorities have denied the seniority on par with 1995 Batch, as a result of which the petitioner lost his seniority and also monetary benefits even though there is no fault on the part of the petitioner.

5. The learned Counsel for the petitioner further submits that the petitioner made an application to the respondent No.1 with a request to restore his seniority on par with the candidates who appointed in the year, 1995. The respondent No.1 vide Memo No.26129/Ser.II/A1/2004-A dated.. 9/2014 directed the respondent No.2 to examine and furnish the remarks for taking necessary action in the matter. Since there was no response from the respondents

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the petitioner filed the present writ petition and requested to allow the writ petition.

6. The Learned Assistant Government Pleader appearing for Home, basing on the counter, submit that though the petitioner was selected as a Civil Police Constable in the year 1995 he was not cleared in medical fitness along with other selected Police Constables and since the petitioner is not selected in the year 1995 he is not entitled for seniority along with 1995 batch Police Constables. As per Rule 21 (a) of A.P. State Subordinate and Service Rules, 1996, a person appointed initially is declared to have satisfactorily completed his probation he shall be continued as a Member of the service by the appointing authority. As per Rule 33 of A.P. State Subordinate and Service Rules, 1996 the seniority will be fixed and in the light of the above rules the seniority of the petitioner will be counted from the date of appointment i.e. from the year 2001 and there are no

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merits in the writ petition and requested to dismiss the writ petition.

7. After hearing both sides, this Court is of the considered view that the petitioner was provisionally selected as a Police Constable (Civil) in pursuance to the notification issued in the year 1994 and he was subjected to the medical examination on 15.04.1995 and due to fingers of the petitioner are not in proper position his case was forwarded to the Medical Board, Osmania General Hospital, Hyderabad by the then Superintendent of Police, Khammam vide letter No.198/A1/1994 dated 21.04.1995 and the Medical Board of the Osmania General Hospital have certified that the petitioner was fit for appointment as Police Constable, but the respondents have not given appointment to the petitioner immediately. The petitioner approached the erstwhile A.P.Administrative Tribunal (APAT), and filed O.A.No.6051 of 1995 and the said O.A was allowed on 17.06.1999. After disposal of O.A the respondents have

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sent the petitioner for training and latter appointed him as a Police Constable by order dated 29.06.2000. Now the respondents are not counting the service of the petitioner on par with the constables selected along with him and appointed in the year 1995 and counting the service of the petitioner from the year 2000.

8. The respondents in the counter stated that the petitioner was not selected in medical fitness along with 1995 batch selected police constables, and since the petitioner was not selected in the year 1995 he is not entitled for seniority along with the batch Police Constables of 1995. As per Rule 21 (a) and 33 of A.P. State and Subordinate Rules, 1996 the petitioner's seniority will be counted from the date of his appointment i.e. from the 2001 is taken in to account.

9. Admittedly the petitioner's appointment was delayed for clarification from the Medical Board, Osmania Hospital,



Hyderabad without any fault on the part of the petitioner and contention of the petitioner was not selected in the medical fitness is not correct.

10. In direct recruitment whose appointments have delayed without any fault on the part of the candidates, but due to latches on the part of the department, the candidate is entitled to be ranking given in selection list for the purpose of seniority and the same was also held by the Apex Court in ***Pilla Sitaram Patrudu and others Vs. Union of India***<sup>1</sup> and ***Dalilah Sojah Vs. State of Kerala & others India***<sup>2</sup> and also this Court in ***B.Bhujanga Rao & another Vs. Government of A.P & others***<sup>3</sup>.

11. Moreover, proviso to Rule 33 (b) of T.S. State and Subordinate Rules, 1996 reads as follows:

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1. (1996) 8 SCC 637  
2. (1998) 9 SCC 641  
3. 2005 (4) ALD 526 (DB)

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*“provided that the order of merit or order of preference indicated in a list of selected candidates prepared by the Public Service Commission or other selecting authority, shall not be disturbed inter-se with reference to the candidates position in such list or panel while determining the seniority in accordance with this rule and notional dates of commencement of probation to the extent necessary, shall be assigned to the persons concerned, with reference to the order of merit or order of preference assigned to them in the said list”*

12. In view of the same, in the instant case without any fault on the part of the petitioner the respondents have delayed in sending the petitioner to training and sent him to training in the year, 2000 after disposal of O.A.No.6051 of 1995 dated 17.06.1999 and now taking the seniority of the petitioner from the year 2000/2001 is arbitrary, illegal and violative of Article 14 of Constitution of India and he is eligible for notional seniority on par with the selected Police Constables (Civil) of the year 1994-95 in the combined Khammam District.

13. In view of the same, the Writ Petition is allowed and the respondents are directed to consider the case of the

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petitioner for notional seniority as per his merit on par with the Police Constables (Civil) selected and appointed in the year 1994-95 in the combined Khammam District, within eight (8) weeks from the date of receipt of copy of this court.

14. Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

Date: 15.03.2023  
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**JUSTICE K.SARATH,**