

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION NOs 6541, 6930, 6985 and 11988 of 2023

WP No.6541 of 2023

Between:

Yellanki Srinivas and others

...Petitioners

AND

1. The Union of India, rep. by its Secretary to the Government of India, Ministry of Finance, Department of Financial Services, Jeevandeep Building, 3rd Floor, Sansad Marg, Parliament Street, New Delhi and three others

...Respondents

WP No.6930 of 2023

Between:

Peddarapu Saidulu and others

...Petitioners

AND

1. The Union of India, rep. by its Secretary to the Government of India, Ministry of Finance, Department of Financial Services, Jeevandeep Building, 3rd Floor, Sansad Marg, Parliament Street, New Delhi and three others

...Respondents

WP No.6985 of 2023

Between:

Ananthoju Naveenachary and others

...Petitioners

AND

1. The Union of India, rep. by its Secretary to the Government of India, Ministry of Finance, Department of Financial Services, Jeevandeep Building, 3rd Floor, Sansad Marg, Parliament Street, New Delhi and three others

...Respondents

WP No.11988 OF 2023

Between:

Aripaka Parameswara Rao and others

...Petitioners

AND

1. The Union of India, rep. by its Secretary to the Government of India, Ministry of Finance, Department of Financial Services, Jeevandeep Building, 3rd Floor, Sansad Marg, Parliament Street, New Delhi and three others

...Respondents

COMMON JUDGMENT PRONOUNCED ON: 21.07.2023

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE K.SARATH

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

JUSTICE K.SARATH

THE HON'BLE SRI JUSTICE K.SARATH

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%Dated 21.07.2023

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...Respondents

! Counsel for Petitioners in : Sri Prathap Narayan Sanghi,
WP Nos.6541, 6985 and 11988 of 2023 Learned Senior Counsel
appearing for
Sri Avadesh Narayan Sanghi

! Counsel for Petitioners in : Smt.P.K.Kalyani,
WP Nos.6930 of 2023 Learned Counsel appearing for
Sri Amancharla V.Gopala Rao

^ Counsel for Respondents : Sri V.R.Avula,
Learned Senior Counsel
appearing for Ms.V.Uma Devi,
Learned Standing Counsel for

the respondents.

< GIST :

> HEAD NOTE :

? Cases referred :

1. AIR 2018 SC 3589
2. AIR 2016 SC (CIVIL) 491
3. AIR 2019 SC 3086
4. (2006) 4 SCC
5. 2022 (1) SC 751
6. (2011) 2 SCC 429
7. (2021) 15 SCC 543

THE HON'BLE SRI JUSTICE K.SARATH

**WRIT PETITION No.6541, 6930, 6985 &
11988 of 2023**

COMMON ORDER:

1. In all these petitions, the petitioners are questioning the conditions imposed under A.P Grameena Vikas Bank Regularization Scheme of Casual/Daily Wage workers as Office Attendants (Multipurpose) in Group-C, 2023 vide Circular No.APGVB/Per&HRD/75/2022-23 dated 13.02.2023 viz., Regulation 2 (2), 3 and 7 (i) insisting for a written online test, prescribing outer age limit of 28 years at the time of initial engagement and applying the scheme only to the Casual/Daily Wage workers who have worked for ten years or more service as on 31.12.2017 instead of 13.02.2023 is illegal, arbitrary, unconstitutional and violative of Article 14, 16 and 21

of the Constitution of India. In view of the same, all these petitions were heard together and being disposed of by way of common order.

2. Head Sri Prathap Narayan Sanghi, Learned Senior Counsel and Smt. P.K.Kalyani, Counsel appearing for the petitioners and Sri V.R.Avula, Learned Senior Counsel appearing for the respondent-Bank.

3. The learned Counsel for the petitioners submits that all the writ petitioners are employees of the respondent No.3-Bank and most of them are continuously in service for the past more than 10-15 years and at least completed 10 years of service and they were appointed in the clear vacancies in terms of Rules and as their services were not regularized and some of the employees were constrained to file W.P.No.15294 of 2014 and batch seeking

regularization of their services and the said writ petitions were disposed of by this Court directing the respondents to evolve a scheme for regularization of services of the petitioners and others subject to assessment of their suitability and their eligibility as to age and educational qualifications has to be assessed as directed by this Court in the order dated 27.12.2017 in W.P.No.24779 of 2011. Against the said orders, the respondent-Bank filed W.A.No.147 of 2021 and batch, and the same were dismissed by the Division Bench of this Court on 25.04.2022 and the respondent-Bank filed SLP No. of 2022 and the same was also dismissed on 12.08.2022.

4. The learned Counsel for the petitioners submits that the respondent No.1 with an intension to uplift the Rural Areas of the Country in the Banking Sector enacted Regional Rural Bank Act, 1976 and

constituted 56 Rural Grameena Banks in the Country. The Government of India vide Notification dated 28.09.1988 framed service rules of its employees which governs the condition of service of its employees in the Rural Grameena bank. The Rule-5 (2) deals with the condition of services, mode of recruitment. All the writ petitioners were appointed pursuant to interviews conducted by the respondent Bank and all of them were holding requisite qualification and have rendered more than 10 years of service with respondent No.3-bank and they are being paid the consolidated pay. The service regulations were modified from time to time. The said Rules were subsequently amended vide notification dated 13.07.2010 and 29.03.2017. The petitioners are concerned with the service Rules of 1988 and 2010 as they were appointed under the said Rules and the Rules, 2017 are not applicable to them

since the same is only prospective in nature. All the Regulations prior to 2017, the mode of recruitment was only interviews. In the year, 2017 written test was prescribed which is not applicable to the petitioners.

5. The learned Counsel for the petitioners further submits that in the case of Chaitanya Godavari Grameena Bank, similarly situated candidates to the petitioners approached this Court and filed W.P NO.24779 of 2011 and this Court directed the respondents therein to formulate a scheme while implementing the Judgment of the Hon'ble Supreme Court. The respondent No.1 having considered and regularized the services of the employees of Chatianya Godavari Grameena Bank by formulating the scheme and the said procedure was required to be followed in the case of the petitioners.

6. The learned Counsel for the petitioners further submits that the Central Government being policy maker cannot discriminate among similarly situated persons prescribing written test and prescribing outer age limit and restricting the scheme only to such of those employees who were completed ten years of service as on 31.12.2017 is arbitrary and illegal.

7. The learned Counsel for the petitioners further submits that pursuant to the orders passed by this court, the impugned scheme is formulated by the respondents proposing to regularize the services of the petitioners but imposed certain conditions which is contrary to the statutory regulations. The respondent No.3 instead of implementing the Judgment of this Court innovated a new procedure to deprive the petitioners from regularization and insisting them for online written test and many of the petitioners are not

well-versed with the computer nor working on the computers and prescribing the online written test is not only contrary to the regulations but it is absolutely illegal and arbitrary.

8. The learned Counsel for the petitioners further submits that the petitioners are working for the last several years and earned experience in the day to day affairs of the Bank and now insisting the petitioners to secure General Knowledge and English and insisting them to participate in online written test. Some of the employees were appointed at the age of 29 and 30 years and have rendered more than 15 years of service and now imposing outer age restriction of 28 years as on the date of initial engagement is illegal and arbitrary and requested to allow all the writ petitions.

9. The learned Counsel for the petitioners in support of their contentions placed reliance on the following Judgments:

1. ***Narendra Kumar Tiwari Vs State of Jarkhand***¹
2. ***Prathap Kishore Panda & Others Vs. Agni Charan Das and another***²
3. ***Union of India and others Vs. V.Parul Debnath and others***³

10. The learned Senior Counsel appearing for respondent-Bank basing on the counter submits that all the petitioners were appointed by the competent authority in the existing vacancies and in terms of the existing Rules is incorrect. In view of the directions of this Court dated 09.01.2020 and the clarification given by the Hon'ble Apex Court dated 12.08.2022, the Bank has evolved a scheme for regularization and thus the scheme evolved by the respondent No.3 was in due

¹ AIR 2018 SC 3589

² AIR 2016 SC (CIVIL) 491

³ AIR 2019 sc 3085

compliance of the directions of this Court as well as the Hon'ble Apex Court and the manner and modalities in which the regularization scheme should be framed is left open to the bank.

11. The learned Senior Counsel for the respondent-Bank further submits that circumstances were different in the Chaitanya Godavari Grameena Bank and in the instant case, wherein an indent was placed by that Bank to the concerned employment exchanges to sponsor the candidates for employment as Office Attendants against the existing vacancies at that time in three districts of erstwhile Unified State of Andhra Pradesh. The petitioners in the said W.P.No.24779 of 2011 claimed that they have qualified the criteria laid down by the respondent-Bank. This Court directed to evolve a scheme for regularization of those casual workers who were recruited by the then Branch

Managers in pursuance to the instructions of the Bank by waiving the recruitment of sponsoring the candidates from the employment exchanges, whereas the case of the petitioners is totally different from the case of Chaitanya Godavari Grameena bank.

12. The learned Senior Counsel for the respondent-Bank further submits that the petitioners were merely working on casuals, on daily wages, on exigency basis and they were never appointed by the Bank or its Branch Managers and no Notification was issued or indent was placed to employment exchanges requesting them for sponsoring of eligible candidates. The Hon'ble Supreme Court also left the modalities and the manner of the scheme for regularization to the respondent-Bank by orders dated 12.08.2022. In compliance to the directions of this Court in W.P.No.15294 of 2014 and batch, a scheme has been

framed waiving the requirement of sponsoring of candidates by the employment exchanges. The scheme for regularization notified by the respondent No.3 in circular dated 13.02.2023 inviting applications from the candidates who meet eligibility criteria under the scheme was without discrimination among similarly situated persons and hence the contention of the petitioners is baseless and not tenable.

13. The learned Senior Counsel for the respondent-Bank further submits that the Central Government have taken a decision to discontinue the practice of interviews for lower cadre posts and the Department of Public Enterprises issued a directive, subsequent to which all Public Sector Banks (PSBs) have been advised to implement the same. In Regional Rural Banks also the interviews have been discontinued for Office Assistant/Office Attendant Posts in Recruitment

Rules, 2017. The modalities of the scheme are in consonance with the recruitment Rules and the directions of this Court dated 09.01.2020 and also clarified by the Hon'ble Apex Court. The Regulation 2(2) of the scheme i.e. cut-off date as 31.12.2017 is neither arbitrary nor violative of Articles 14 and 16 of the Constitution of India as the cut-off date fixed was due to the reasons of outsourcing of house-keeping services in respondent-Bank with effect from 01.01.2018 and there are no casual engagements on daily wages in the respondent-Bank since that date.

14. The learned Senior Counsel for the respondent further submits that the respondent-Bank along with all other Regional Rural Banks and Public Sector Banks in the country generally taken up recruitment process through Institute of Banking and Personnel Section (IBPS) which is the approved agency by the

Central Government. Since the respondent-Bank does not undertake recruitment by itself, has taken up with IBPS in letter dated 21.01.2023 with a request to explore possibility of conducting an offline written test (OMR) based for eligible petitioners but the IBPS informed that they have stopped conducting offline examinations and it was suggested that examination be conducted through online mode only vide their letter dated 31.01.2023. Further the respondent bank also decided to conduct pre-examination training for all eligible candidates to impart general awareness of the standards of examination and to have hands-on experience on computer system for online examination and requested to dismiss all the writ petitions.

15. The learned Senior Counsel for the respondents in support of their contention relied on the following Judgments:

- 1. Secretary, State Bank of Karnataka and others⁴**
- 2. Union of India and others Vs. Ilmo Devi and another⁵**
- 3. State Bank of Rajasthan and others Vs. Daya Lal and others⁶**
- 4. State of Tamilnadu and another Vs. National South Indian River Interlinking Agriculturists Assn., ⁷**

16. After hearing both sides and on perusing the records, this Court is of the considered view that the petitioners are questioning the conditions imposed under Regularization of Casual/Daily Wage Workers as Office Attendants (Multi-purpose) in Group-C in Circular No.APGVP/Per&HRD/75/2022-23 dated 13.02.2023 i.e. Regulations Nos.2 (2), 3 and 7 (i) insisting for online Written Test, outer age limit of 28 years and the applicability of the scheme is only to the

⁴ (2006) 4 SCC

⁵ 2022 (1) SC 751

⁶ (2011) 2 SCC 429

⁷(2021) 15 SCC 543

employees continued prior to 31.12.2017 instead of 13.02.2023.

17. The respondent-Bank framed impugned Regularization scheme basing on the directions of this Court in W.P.No.15294 of 2014 and batch dated 09.01.2020. In the said order, the learned Single Judge of this Court given directions to the respondents, as follows:

“8. This Court, having considered the rival submissions made by the parties, is of the considered view that these writ petitions can be disposed of with the following directions :

(a) The respondents shall evolve a scheme for regularization taking due note of the observations made above and grant regularization of services of all the petitioners, subject to assessment of their suitability.

(b) Petitioners be subjected to selection process to the posts of Office Attendants (Multipurpose) without insisting that their names should be sponsored by Employment Exchange or any other agency.

(c) While considering for such recruitment, having regard to long service rendered by petitioners, the Bank may evolve some procedure/scheme to grant weightage to petitioners for the service rendered subject to such service being satisfactory. Their eligibility as to age and educational qualification has to be assessed as directed in the order dated 27.12.2017 in W.P.No.24779 of 2011.

(d) It is made clear that such consideration is confined only to those persons who are actually in service and it is not applicable to the persons who have left the service or died.

(e) The entire exercise should be completed as expeditiously as possible, preferably within a period of six months”.

18. The respondent-Bank questioned the above said order and the Division Bench of this Court in W.A.No.147 of 2021 upheld the directions of the Single Judge on 25.04.2022 and the operative portion of the said order is as follows:

“12. In the considered opinion of this Court, directions issued by the Single Judge in the impugned order similar to the directions issued in W.P.no.24779 of 2011 dated 27.12.2017 passed by another Single Judge of this Court

do not suffer from any error or law or material irregularity. The respondent Nos.1 and 2 in W.P.No.24779 of 2021 are Chaitanya Grameena Bank, represented by its Chairman and Manager respectively, established under the Regional Rural Banks Act, 1976. In the instant writ petitions also, respondent No.1 is Andhra Pradesh Grameena Vikas bank established under the same Act. Hence, the learned Single Judge was justified in issuing similar directions as was issued in W.P.No.24779 of 2011 dated 27.12.2017. In sofaras as the contention of the learned Counsel for the bank that the writ petitioners have not put in 5 to 10 years of service and that they are not in continuous service is concerned, it needs to be noted that the learned Single Judge, observed that each individual case of the writ petitioners has to be considered after framing the scheme. In the opinion of this court, the bank is anon way prejudiced by such observations and directions. Thus, this Court finds no ground to entertain these appeals”

19. Against the orders of this Court in W.P.No.15294 of 2014 dated 09.01.2020 and batch and W.A.No.147 of 2021 and batch dated 25.04.2021, the respondent-Bank approached the Hon'ble Supreme Court and filed SLP No.12973 of 2022 dated 12.08.2022 and the

same was also dismissed by the Hon'ble Supreme Court with clarifications. The operative portion of the said Judgment is as follows:

“ Having heard learned Counsel for the respective parties and having gone through the impugned judgment and order passed by the Division Bench as well as Learned Single Judge, it can be seen that, as such, there are no specific directions issued by the High Court directing the petitioner-Bank to regularize the services of the concerned employees-messengers/Attenders/Original Writ Petitioners. The High Court has only directed to frame the scheme of regularization – the modalities and the manner in which the regularization scheduled should be framed are left to the petitioner-Bank. The High Court has directed that, after the regularization scheme is framed, the case of each concerned employee-Messenger/Attender/Original Writ petitoenrs shall be considered individually.

In that view of the matter and with the above clarification, we see no reason to interfere with the impugned judgment and order passed by the High Court. The Special Leave Petitions stand dismissed/disposed of”

20. After dismissal of the above SLP, the respondent-Bank framed the impugned scheme of regularization. The main grievance of the petitioners is that, the respondent-Bank taking into account of the amended Regulations, 2017 insisting them for a written online test, prescribing outer age limit of 28 years at the time of initial engagement and applying the scheme only to the employees continued prior to 31.12.2017.

21. The contention of the petitioners is that some of the employees were appointed at the age of 29 and 30 years and have rendered more than 15 years of service and now imposing outer age restriction of 28 years at the time of initial engagement is contrary to the orders of this Court. This Court in the orders in W.P.No.15294 of 2014 and batch dated 09.01.2020 directed that the eligibility as to the age and

educational qualifications has to be assessed as directed in the order dated 27.12.2017 in W.P.No.24799 of 2011.

22. Now the respondent-Bank cannot frame the scheme contrary to the above said direction and prescribe the outer age limit of 28 years at the time of initial appointment and the same is liable to be set aside.

23. The learned Counsel for the petitioners brought to the notice of this Court about the scheme of regularization in respect of Chaitanya Godavari Grameena Bank employees in implementation of the orders in W.P.No.24779 of 2011 dated 27.12.2017 framed the scheme for Regularization of Messenger-cum-Sweepers/Daily Wage Workers working on casual Basis/Casual Labour as Office Attendants (Multi

Purpose) in Group-C, 2018 and taking into account of the Regional Rural Bank (Appointment and Promotion of Officers and Employees) Rules, 2010 which provides selection process, without written examination.

24. The Division Bench of this Court in W.A.No.147 of 2021 and batch dated 25.04.2022 clearly held that the Chaitanya Godavari Grameena bank was established under the Regional Rural Banks Act, 1976 and the learned Single Judge was justified in issuing the similar directions as was issued in W.P.No.24779 of 2011 dated 27.11.2017. In view of the same, the respondent-Bank have to formulate the scheme without imposing any conditions contrary to the scheme formulated by the Chaitanya Godavari Grameena Bank.

25. The Hon'ble Supreme Court has not set aside the directions issued by the Single Judge as well as directions of the Division Bench of this Court in SLP No.12793 of 2022 dated 12.08.2022 but issued clarifications with regard to the manner and modalities in which the regularization scheme should be framed is left open to the respondent-Bank as per the directions of this Court in W.P.No.15924 of 2014 dated 09.01.2020, but not contrary to the same.

26. The Judgments relied by the learned Counsel for the petitioners apply to the instant case. The Hon'ble Supreme Court in ***Narendra Kumar Tiwari Vs. State of Jarkhand (surpa1)*** held as follows:

“8. The purpose and intent of the decision in Umadevi was therefore two-fold, namely, to prevent irregular or illegal appointments in the future and secondly, to confer a benefit on those who had been irregularly appointed in the

past. The fact that the State of Jharkhand continued with the irregular appointments for almost a decade after the decision in Umadevi is a clear indication that it believes that it was all right to continue with irregular appointments, and whenever required, terminate the services of the irregularly appointed employees on the ground that they were irregularly appointed. This is nothing but a form of exploitation of the employees by not giving them the benefits of regularisation and by placing the sword of Damocles over their head. This is precisely what Umadevi and Kesari sought to avoid.

9. If a strict and literal interpretation, forgetting the spirit of the decision of the Constitution Bench in Umadevi, is to be taken into consideration then no irregularly appointed employee of the State of Jharkhand could ever be regularised since that State came into existence only on 15th November, 2000 and the cut-off date was fixed as 10th April, 2006. In other words, in this manner the pernicious practice of indefinitely continuing irregularly appointed employees would be perpetuated contrary to the intent of the Constitution Bench.

10. The High Court as well as the State of Jharkhand ought to have considered the entire issue in a contextual perspective and not only from the point of view of the interest of the State, financial or otherwise – the interest of

the employees is also required to be kept in mind. What has eventually been achieved by the State of Jharkhand is to short circuit the process of regular appointments and instead make appointments on an irregular basis. This is hardly good governance.

11. Under the circumstances, we are of the view that the Regularisation Rules must be given a pragmatic interpretation and the appellants, if they have completed 10 years of service on the date of promulgation of the Regularisation Rules, ought to be given the benefit of the service rendered by them. If they have completed 10 years of service they should be regularised unless there is some valid objection to their regularisation like misconduct etc”.

In view of the above Judgment of the Hon’ble Supreme Court, the respondent-Bank have to apply the scheme of Regularization from the date of Notification i.e. on 13.02.2023 instead of on 31.12.2017.

27. The Judgments relied by the learned Senior Counsel for the respondent-Bank are not apply to the

instant cases, as all the Judgments are pertaining to the regularization of services, the issue in the instant case is framing of scheme for Regularization as per the orders of this Court and the Hon'ble Supreme Court of India.

28. The contention of the petitioners is that they have qualification of below 10th Class and they are not well versed with the computers nor they are working on the computers and they are working for the last several years and gained experience in the day to day affairs of the Bank and now insisting them to secure General Knowledge and English and insisting them to participate in online written test is arbitrary and illegal. The respondents in their counter accepted the same that the petitioners are not well versed with the computers and taking steps to give training for participating in the online examinations. It clearly

shows that the petitioners are not well versed with the computers and in spite of that the impugned scheme was framed for conducting examination in online.

29. The respondent-Bank without taking into account of the educational qualifications of the petitioners and their nature of work, now conducting examination through online for testing their knowledge in English would deprive their right for regularization of their services and the same is contrary to the orders passed by this Court in W.P.No.15924 of 2014 and batch dated 09.01.2020 and contrary to the same was done in the case of Chaitanya Godavari Grameena Bank Regularization Scheme, 2018. In view of the same, the impugned conditions imposed by the respondent-Bank are liable to be set aside.

30. In view of the above finding, all the Writ Petitions are allowed by setting aside the conditions imposed i.e.

Conditions 2 (2), 3 and 7 (i) of Andhra Pradesh Grameena Vikas Bank Regularization of Casual/Daily Wage Workers as Office Attendants (Multipurpose) in Group-C, 2023 issued in Circular No.APGVB/Par&HRD/ 75/2022-23 dated 13.02.2023 and the respondent-Bank is directed to modify the Regularization Scheme, 2023 as per the directions of this Court in W.P.No.15294 of 2014 and batch dated 09.01.2020 for regularization of the services of the petitioners within three (3) months from the date of receipt of copy of this order.

31. Miscellaneous applications, if any, shall stand Closed. There shall be no order as to costs.

JUSTICE K.SARATH,

Date: 21.07.2023

Note:

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