

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI  
(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF AUGUST  
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 19404 OF 2023



**Between:**

N Jagannadha Naidu, S/o N. Muni Swamy Naidu, Aged about 53 years, Occ:  
Senior Assistant O/o Executive Engineer, Irrigation Division, Srikalahasti,  
Chittoor District, Andhra Pradesh

...PETITIONER

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary Irrigation and Command Area Development Department, A.P. Secretariat, Velagapudi Amaravati, Guntur District.
2. The Superintendent Engineer, Water Resource Department Irrigation Circle, Chittoor, Chittoor District, AP
3. The Executive Engineer, Irrigation Division, Srikalahasti, Chittoor District, AP

...RESPONDENTS

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of a writ mandamus declaring the action of the 2nd Respondent in issuing Memo No.AB/A1/WP No.28391/2022/781 M dt.17-10-2022 wherein rejecting the petitioner's application for promotion in the cadre of Superintendent, Irrigation Circle, Chittoor against Roster Point No. 31 (Hearing Impairment) is illegal, arbitrary, unjust and contrary to Sec 34 (1) of the Rights of Persons with Disabilities Act, 2016 and in violation of G.O.Ms.No.2 (Department for Women, Children, Differently Abled and Senior Citizens) dt.19-02-2020 and G.O. Ms No. 121 General Administration Department dated 12-10-2022 and consequently set aside the same by directing the respondents to issue promotion in favour of the petitioner as Superintendent, Irrigation Circle, Chittoor against Roster Point No. 31 (Hearing Impairment)

IA NO: 1 OF 2023

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the 2<sup>nd</sup> respondent to consider the representation dated 26-11-2022 made by the petitioner for promotion to the post of Superintendent, Irrigation Circle, Chittoor against Roster Point No. 31 (Hearing Impairment) for

the present panel year in terms of G.O.Ms No 121 General Administration (Services-D) Department dt 12-10-2022, pending disposal of the above writ petition.

**Counsel for the Petitioner: Smt. KAVITHA GOTTIPATI**

**Counsel for the Respondent Nos. 1 to 3: GP FOR SERVICES III**

**The Court made the following: ORDER**

**HONOURABLE SMT. JUSTICE V.SUJATHA**

**WRIT PETITION No.19404 of 2023**

**ORDER:**

The present Writ Petition came to be filed under Article 226 of the Constitution of India seeking the following relief:-

*"... to issue a Writ, Order or Direction particularly, one in the nature of Writ of Mandamus, declaring the action of the 2<sup>nd</sup> respondent in issuing Memo No.AB/A1/WP.No.28391 /2022/781 M, dated 17.10.2022 wherein rejecting the petitioner's application for promotion in the cadre of Superintendent, Irrigation Circle, Chittoor against Roster Point No.31 (Hearing Impairment) as illegal, arbitrary, unjust and contrary to Section 34 (1) of the Rights of Persons with Disabilities Act, 2016 and in violation of G.O.Ms.No.2 (Department for Women, Children, Differently Abled and Senior Citizens) dated 19.02.2020 and G.O.Ms.No.121 General Administration Department, dated 12.10.2022 and consequently set aside the same by directing the respondents to issue promotion in favour of the petitioner as Superintendent, Irrigation Circle, Chittoor against Roster Point NO.31 (Hearing Impairment) and pass such other order or orders..."*

2. It is the case of the petitioner that initially the petitioner was appointed as Junior Assistant in the 3<sup>rd</sup> respondent office under Physical Handicapped Quota and subsequently promoted as Senior Assistant and working as such since long time. Inspite of the representations made by the petitioner and the orders, dated 06.09.2022, passed by this Court in W.P.No.28391 of 2022, the respondent authorities rejected the petitioner's case for promotion in the cadre of Superintendent against Roster Point No.31 on the ground that the total sanctioned strength of Superintendent posts

in Irrigation Circle, Chittoor is only 6 and the 4% is calculated, the result of adequacy comes only 0.24 to the disabled category for the purpose of Superintendent Promotion in the said circle vide Memo, dated 17.10.2022, which is illegal and arbitrary.

3. It is further stated that the Government has issued G.O.Ms.No.2, dated 19.02.2020, wherein provided 4% reservation in appointment and in promotions in every Government establishment in favour of bench mark disabilities as per Section 34 of Rights of Persons with Disabilities Act, 2016. As per G.O.Ms.No.2, dated 19.02.2020, it is specifically mentioned that the reservation in promotions for physically Handicapped i.e., wherever the cadre strength would be more than 5 in any cadre, the 4% of reservation to be followed. In pursuance of G.O.Ms.No.121, dated 12.10.2022, the 4% reservation should be provided for the physically handicapped for promotions without mentioning any conditions against Roster Point Nos.6,31,56 and 86. In the impugned order, dated 17.10.2022, the 2<sup>nd</sup> respondent has further stated that the vacancy to be carry forward to the subsequent panel year only when the adequacy reaches atleast one and there is no provision to PH employees as in case of STs to the effect that the required adequacy may be taken as one for the post, whose cadre strength is 6,7 or 8 in terms of G.O.Ms.No.4 SW

(ROR-I) Department, dated 24.01.2007, as such, it is clear that the 2<sup>nd</sup> respondent ought to have got clarification from the Higher Officials to carry forward the vacancy to the subsequent panel year instead of rejecting the case of the petitioner for promotion.

4. The existing 100 point roster already prescribed under Rule 22 of A.P.State and Subordinate Service Rules by State Government shall be followed in case of promotions i.e., Roster Point Nos.6, 31, 56 and 86. The provisions are very clear that the required number of disabled employees are not available in feeder category, the vacancies earmarked for disabled employees according to the roster will be carry forward.

5 Learned counsel for the petitioner submits that as the 2<sup>nd</sup> respondent is issuing promotions as Superintendents to the open category candidates against the roster points which are earmarked for disabled employees, it would suffice if a direction is given to the respondents to consider the representation, dated 26.11.2022, made by the petitioner requesting for promotion to the post of Superintendent from Senior Assistant under physically handicapped quota.

6. Learned Government Pleader appearing for the respondents does not refute the said submission.

7. Having regard to the facts and circumstances, without touching the merits of the case, this Court deems it appropriate to dispose of this writ petition directing the 2<sup>nd</sup> respondent to consider the representation, dated 26.11.2022 made by the petitioner and pass appropriate orders in accordance with the existing Rules, within a period of two weeks from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

S/o- V. SAVITRI GOWRI  
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER.

To,

1. The Principal Secretary Irrigation and Command Area Development Department, State of Andhra Pradesh, Secretariat, Velagapudi Amaravati, Guntur District.
2. The Superintendent Engineer, Water Resource Department Irrigation Circle, Chittoor, Chittoor District, AP
3. The Executive Engineer, Irrigation Division, Srikalahasti, Chittoor District, Andhra Pradesh.
4. One CC to Smt. KAVITHA GOTTIPATI Advocate [OPUC]
5. Two CCs to GP FOR SERVICES III, High Court Of Andhra Pradesh. [OUT]
6. Two CD Copies

Csb  
Sdcr

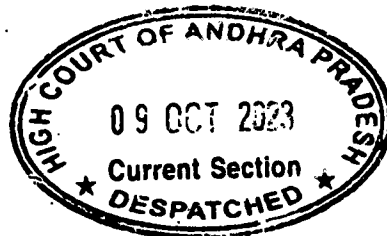
*Pujila*

**HIGH COURT**

**DATED:03/08/2023**

**ORDER**

**WP.No.19404 of 2023**



86 pms  
TP  
15/9/2023

**DISPOSING THE WP WITHOUT COSTS**