IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY, THE TWENTIETH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT APPEAL NO: 92 OF 2025

Writ Appeal under clause 15 of the Letters Patent Against the Order in W P (TR) No 3778 of 2017 dated 18-12-2023 and review orders in IA No. 1 of 2024 dated 22/11/2024 and pass (Grounds are amended as per Co. dt. 06/02/2024 vide IA No. 3 of 2025) on the file of the High Court.

Between:

1. The State of Telangana, Rep. by its principal Secretary, Irrigation and CAD (PW) Department, Secretariat Buildings, Hyderabad - 500 022.
2. The Chief Engineer, Nagarjuna Sagar Project, Hill colony, Nalgonda District, (Now Chief Engineer, Irrigation, Nalgonda)
3. The Superintending Engineer, NSLC OandM Circle, Miryalaguda (Now Irrigation Circle, Hill colony, Nalgonda Dist)
4. The Executive Engineer, NSC OandM Division, Miryalaguda (Now Irrigation Division No.3, Miryalaguda, Nalgonda Dist)
5. The State of Telangana, Rep. by its principal Secretary, Finance and planning Department, Secretariat Buildings, Hyderabad - 500 022.

...APPELLANTS

AND

R.Kamalamma, W/o Keshava Ram Aged about 60 Years Sweeper, NSC (OandM) Sub-division, Miryalaguda. (Now renamed as Irrigation Sub-division No.1, Miryalaguda, Nalgonda Dist)

...RESPONDENTS

IA NO: 2 OF 2025

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 to suspend the orders passed in WP (TR) No 3778 of 2017, dated 18-12-2023, and

review orders in IA No. 1 of 2024, dated 22/11/2024 during the pendency of the appeal.

(Interim Prayer is amended as per Co. dt. 06/02/2024 vide IA No. 3 of 2025).

Counsel for Appellants : SRI S.SATYANARAYANA RAO, GP FOR SERVICES I

Counsel for the Respondents: SRI S.GOPAL RAO

The Court made the following: JUDGMENT

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT APPEAL No.92 of 2025

JUDGMENT *(Per the Hon'ble the Acting Chief Justice Sujoy Paul)*:

Sri S. Satyanarayana Rao, learned Government Pleader for Services-I, for the appellants and Sri S. Gopal Rao, learned counsel for respondent/writ petitioner.

2. Heard on admission.

3. The parties have fought a long drawn battle in the corridors of the Court.

4. The respondent/writ petitioner admittedly rendered 35 long years of service with the Department. Initially, she filed O.A. No. 6842 of 1994 before the then existing Andhra Pradesh State Administrative Tribunal. The Tribunal disposed of the O.A. on 23.11.1994 directing the respondents therein to verify whether the writ petitioner has satisfactorily worked, eligible and suitable for regularization and pass appropriate orders. Thereafter, the writ petitioner again filed O.A. No.5528 of 2001. The Tribunal disposed of the said O.A. on 19.08.2001 by directing the concerned Chief Engineer to take appropriate action on proposal sent by the Superintendent Engineer within

one month from the date of receipt of copy of the order regarding the prayer of regularization. The writ petitioner again approached the Tribunal by filing O.A. No. 4824 of 2005 which was disposed on 09.09.2009 by the following directions:-

> "6. In the light of the above circumstances, the O.A. is disposed of. The respondents are directed to pursue the matter with the Government regarding the sanction of last grade post and in the event of sanction of the post the candidature of the applicant shall be considered for regularization of her services in the last grade service subject to fulfillment of other conditions as per G.O.Ms. No. 212 dated 22.04.1994 or G.O.Ms.No.112, dated 23.07.1997 as the case may be."

5. Thereafter, the writ petitioner again filed O.A.No.2879 of 2015 which, on abolition of Tribunal, was transferred to this Court and was re-registered as W.P.(TR).No.3778 of 2017. In this transferred O.A., the writ petitioner has called in question the legality, validity and propriety of memo dated 05.08.2023. In the said memo, it was stated that although there exists a sanctioned post in the last grade service, the writ petitioner does not possess the requisite qualification and therefore, her claim for regularization was rejected. Learned Single Judge allowed the said W.P.(TR) by order dated 18.12.2023 directing the appellants to consider the case of the writ petitioner for regularization with notional benefits in the light of her long service and pass a reasoned order in accordance with law within a period of eight

weeks from the date of receipt of copy of the order. Challenging the said order of learned Single Judge, the present appeal is filed.

6. Learned counsel for the appellants submits that two conditions must be fulfilled for grant of regularization namely: (i) existence of a vacant post and (ii) requisite qualification for the said post. Since the writ petitioner did not possess the requisite qualification, she could not have received the benefit of regularization. Apart from this, learned Single Judge has ordered for regularization despite the fact that the writ petitioner stood retired on 28.02.2015. After retirement, question of regularization does not arise.

7. Learned counsel for the writ petitioner supported the impugned order and submits that the writ petitioner diligently fought for her right. She has rendered 35 years of long service which itself shows that there was a continuous and regular need of a post against which she has worked. The learned Single Judge has rightly relied on certain judgments of the Supreme Court and directed for regularization.

8. No other point is pressed by the parties.

9. So far the question of antedated regularization is concerned, in the peculiar facts of this case, it is clear that the writ petitioner has been fighting for regularization for the last few decades. Unfortunately, her claim was settled by the appellants after her retirement. Although, it cannot be forgotten that she filed her first O.A. in the year 1994 and thereafter, filed several other O.As. for the same claim, the appellants, for the reasons best known to them, took a conscious decision only on 05.08.2023 i.e., after the writ petitioner's retirement. Thus, the writ petitioner challenged the said order after her retirement and therefore, there is no delay on the part of the writ petitioner.

10. The learned Single Judge, after relying on certain judgments of Supreme Court, came to hold that the writ petitioner was appointed through due process and was duly sponsored by the District Employment Exchange, Nalgonda on 08.04.1980. She rendered 35 years of service on the date of filing of O.A.No.2879 of 2015. In this backdrop and after considering the judgment of Supreme Court in **Nihal Singh and others v. State of Punjab**[1], learned Single Judge opined that the sanctioned post does not fall from heaven and State has to create it as per its conscious choice. The State, as noticed

[1] (2013) 14 SCC 65

above, took decades to take a decision on the claim of a poor employee for regularization. The writ petitioner, in our opinion, by no stretch of imagination, can be said to be a "backdoor entrant" because her name was duly sponsored by the Employment Exchange. She has rendered 35 years of service. Thus, learned Single Judge has taken a plausible view and directed her consideration for regularization with retrospective effect and with notional benefits. We do not see any merit which warrants interference by us.

11. Accordingly, the Writ Appeal fails and is hereby **dismissed**. The appellants shall implement this order positively within sixty days from the date of communication of copy of this order. No costs.

Interlocutory applications, if any pending, shall also stand closed.

SD/-T.KRISHNA KUMAR
DEPUTY REGISTRAR

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SECTION OFFICER

To,

1. Two CCs to GP FOR SERVICES I, High Court for the State of Telangana. [OUT]
2. One CC to SRI S.GOPAL RAO, Advocate. [OPUC]
3. Two CD Copies.

BSK

LS

HIGH COURT

DATED:20/03/2025



JUDGMENT

WA.No.92 of 2025

DISMISSING THE WRIT APPEAL WITHOUT COSTS

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