IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY,THE THIRTEENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL NO: 863 OF 2025

Writ Appeal under clause 15 of the Letters Patent Appeal Preferred Against Order Dated 28/05/2025 in WP.No. 40636 of 2016. on the file of the High Court.

Between:

Marri Mahitha, D/o Madan Mohan Reddy, Aged about 44 years, Occ. Senior Assistant, O/o Commercial Taxes Officer, Nacharam Circle, Suchitra X Roads, Qutbullapur, R.R.District.

...APPELLANT/WRIT PETITIONER

AND

1. The Commissioner of Commercial Taxes, State of Telangana, C.T Complex, Nampally, Hyderabad
2. The Deputy Commissioner of Commercial Taxes, Hyderabad Rural Division, State of Telangana, Gaganvihar Complex, Nampally, Hyderabad
3. State of Telangana, Rep. by its Principal Secretary, Telangana Secretariat, Revenue (CT) Department, Secretariat, Hyderabad

...RESPONDENTS/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 direct the Respondents to promote the Appellant as ACTO (Language) by transfer in the existing vacancy with effect from the date of availability of the post read with acquiring eligibility and qualification by the Appellant ie., March 2013 and further consider the case of the post of ACTO/ACTO (Language) reckoning the notional seniority of the Petitioner in the cadre of Senior Assistant (Language) with all consequential benefits including seniority. pending Writ Appeal

Counsel for the Appellant: SRI. M. SRIKANTH
Counsel for the Respondents: SRI SANTHAPUR SATYANARAYANA RAO, GP FOR SERVICES I

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT APPEAL No.863 of 2025

JUDGMENT:

Heard Sri M.Srikanth, learned counsel for the appellant. Also heard Sri Santhapur Satyanarayana Rao, learned Government Pleader for Services-I, appearing for the respondents.

2. This writ appeal is directed against the order dated 28.05.2025 passed in W.P.No.40636 of 2016, whereby the learned writ court has dismissed the writ petition filed by the appellant.

3. The appellant was appointed as Junior Assistant in the Commercial Taxes Department on compassionate grounds on 20.01.2004. She claims to have passed all the departmental tests, including Marwari and Gujarathi Language tests in 2012 and 2013 itself respectively, to become eligible to the post of Senior Assistant (Language) existing at that time. When the promotional exercise for

general vacancies was conducted, she got promoted as Senior Assistant on 01.10.2014 against regular post of Senior Assistant. She approached the writ court in the year 2016 for considering her case against the available vacancy for the post of Senior Assistant (Language), since she has acquired eligibility and qualification in March 2013. The learned writ court, on the basis of the pleadings on record, declined the relief holding that by the circular dated 17.05.2013, the Commissioner of Commercial Taxes had issued instructions to all the Nodal Deputy Commissioners (CT) that once the persons are occupying the posts of Senior Assistants and/or ACTOs (Language) (M&G) retire/got promotion/otherwise move out, such posts would get converted to general category post of Senior Assistant/ACTO as the case may be and thereafter no person shall be posted or promoted as Senior Assistant/ACTO (M&G) category against these posts. This circular was not under challenge. The learned writ court rejected the contention of the appellant that though the extant rules of the Andhra Pradesh Commercial Taxes Subordinate Service Rules were not amended removing the

post of Senior Assistant (Language) or ACTO (Language), the Government had no power or authority to delete the said post by way of passing any executive order. However, the learned writ court did not find any merit in the case of the appellant and dismissed the writ petition. Being aggrieved, the appellant has preferred this appeal.

4. So far as the legal position is concerned, it is true that the statutory rule cannot be overridden by an administrative circular. The administrative circular issued under Article 162 of the Constitution of India can only fill up the void where the rules are silent. However, on facts, we find that the appellant had already accepted promotion to the post of Senior Assistant as back as on 01.10.2014 against the regular post and acquiesced in the process of promotion. She has later on turned around and preferred the writ petition for notional seniority in the cadre of Senior Assistant (Language) with all consequential benefits including seniority. It was open for the appellant to raise her claim at the appropriate time when the promotional exercise was being considered, which she failed to do.

Such belated claim after accepting the promotional post should not be allowed, moreover, when apparently there is no difference in the scale of pay or grade pay to the promoted post which the appellant is holding.

5. Therefore, we do not feel it necessary to get into the question of the validity of the circular dated 17.05.2013, more so, when the same was not under challenge in the writ petition.

6. Accordingly, we do not find any merit in the appeal and the same is hereby dismissed. However, there shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/-L.LAKSHMI BABU
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

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

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LS

HIGH COURT

DATED:13/08/2025



JUDGMENT

WA.No.863 of 2025

DISMISSING THE WRIT APPEAL WITHOUT COSTS

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10/9/25