



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

[3460]

THURSDAY, THE TWENTIETH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE
PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY
WRIT PETITION NO: 16237/2023

Between:

1. C UPENDAR, S/O GOVINDARAJULU, AGED ABOUT 32 YEARS, OCC. MSW GR-II, (MEDICO SOCIAL WORKER GR-II) WORKING AT SUPER SPECIALITY HOSPITAL, ANANTAPUR, ANANTAPUR DISTRICT. (APPOINTED ON 30.11.2020)
2. E. MAHESH, S/O MAREPPA, AGED ABOUT 28 YEARS, OCC. RECEPTIONIST, WORKING AT SUPER SPECIALITY HOSPITAL, ANANTAPUR, ANANTAPUR DISTRICT. (APPOINTED ON 12.11.2020)
3. M. PRAVEEN KUMAR, S/O BASAIAH, AGED ABOUT 32 YEARS, OCC. JUNIOR ASSISTANT, WORKING AT SUPER SPECIALITY HOSPITAL, ANANTAPUR, ANANTAPUR DISTRICT. (APPOINTED ON 11.12.2020)
4. K. VENKATESWARA RAO, S/O JAYARAMULU, AGED ABOUT 35 YEARS, OCC. JUNIOR ASSISTANT, WORKING AT SUPER SPECIALITY HOSPITAL, ANANTAPUR, ANANTAPUR DISTRICT. (APPOINTED ON 19.11.2020)
5. J. PUSPAVATHI, D/O J. LALEPPA, AGED ABOUT 28 YEARS, OCC. MSW GR-II, (MEDICO SOCIAL WORKER GR-II) WORKING AT SUPER SPECIALITY HOSPITAL, ANANTAPUR, ANANTAPUR DISTRICT. (APPOINTED ON 11.12.2020)
6. D. PRASHANTHI, W/O PRAVEEN KUMAR, AGED ABOUT 36 YEARS, OCC. DATA ENTRY OPERATOR, WORKING AT SUPER SPECIALITY HOSPITAL, ANANTAPUR, ANANTAPUR DISTRICT. (APPOINTED ON 23.06.2020)

7.B.SUNIL KUMAR, S/O YESANNA, AGED ABOUT 37 YEARS, OCC. RADIOGRAPHER, WORKING AT SUPER SPECIALITY HOSPITAL , ANANTAPUR, ANANTAPUR DISTRICT. (APPOINTED ON 26.12.2020)

8.S.SHARMILA, D/O GHOUSE MODDHIAN AGED ABOUT 39 YEARS, OCC. STOREKEEPER, WORKING AT SUPER SPECIALITY HOSPITAL , ANANTAPUR, ANANTAPUR DISTRICT. (APPOINTED ON 30.11.2020)

9.BANDI POORNAMA, D/O.B.RANGAIAH AGED ABOUT 27 YEARS, OCC. SENIOR ASSISTANT, WORKING AT SUPER SPECIALITY HOSPITAL , ANANTAPUR, ANANTAPUR DISTRICT. (APPOINTED ON 19.11.2020)

...PETITIONER(S)

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS. SECRETARY, MEDICAL AND HEALTH DEPARTMENT, SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.

2.THE DIRECTOR OF MEDICAL EDUCATION, AP, VIJAYAWADA, KRISHNA DISTRICT.

3.THE COMMISSIONER OF A P VAIDHA VIDHAN PARISHAD, VIJAYAWADA, KRISHNA DISTRICT

4.THE PRINCIPAL GOVERNMENT MEDICAL COLLEGE, ANANATAPUR ANANTAPUR DISTRICT.

5.THE DISTRICT COLLECTOR AND CHAIRMAN, DISTRICT SELECTION COMMITTEE, ANANTAPUR

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus by declaring the action of the respondents in not considering the appointments of the petitioners on Contract basis instead of Out Sourcing basis in the respective posts as shown in the above cause title as highly illegal, arbitrary, discriminatory, contrary to the mode of appointment issued in proceedings

Rc.No.4077/P1/2020 Dated.29.06.2020 of 2nd respondent, against the rules and regulations of Notification issued vide Rc.No.100/G.M.C/ATP/2020 Dated.13.07.2020 of 4th respondent and also against the Article 14,16 and 21 of Constitution of India and consequently direct the respondents to consider the claim of the petitioners for appointment on Contract basis instead of Outsourcing and accordingly to pay arrears of pay w.e.f. the date of appointment of the petitioners and pass such other order.

IA NO: 1 OF 2023

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 consider the claim of the petitioners for direct the respondents to consider the claim of the petitioners for appointment on Contract basis instead of Outsourcing in the respective posts and accordingly direct them to release arrears of pay to the petitioners w.e.f. the date of appointment and to pass such other order.

IA NO: 1 OF 2024

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 grant leave to the Respondent nos.1, 2, 3 and 5 to file Counter Affidavit and to pass such other order.

Counsel for the Petitioner(S):

1.HARINATH REDDY SOMAGUTTA

Counsel for the Respondent(S):

1.GP FOR SERVICES IV

The Court made the following:

HON'BLE SRI JUSTICE NYAPATHY VIJAY**WRIT PETITION No.16237 of 2023****ORDER:**

1. The present Writ Petition is filed seeking to declare the action of Respondents in not considering the appointments of the Petitioners on contract basis rather than on outsourcing basis in their respective posts, as illegal and arbitrary.

2. The facts leading to filing of the present Writ Petition are as follows;

The State Government had issued G.O.Ms.No.60, Health, Medical and Family Welfare (A1) Department, dated 10.06.2020 for Creation/Sanction of 5701 posts of different categories for appointment in Medical Department across the State. As per the said G.O., total 111 posts were sanctioned to the Respondent No.4-Hospital.

3. Pursuant to the said G.O., Respondent No.2 had issued Proceedings vide Rc.No.4077/P1/2020, dated 29.06.2020 requesting the Superintendents/Principals of Government Medical Colleges to fill up the vacancies of Staff Nurses, Paramedical Posts, Lab Technicians, Class-IV and Pharmacists on outsourcing/contract basis in all teaching hospitals and Government Medical Colleges under the administrative control of the Director of Medical Education, Andhra Pradesh Vaidya Vidhan Parishad.

4. In continuation Respondent No.4 issued Notification vide Rc.No.100/G.M.C/ATP/2020, dated 13.07.2020 for recruitment of posts specified therein on contract basis. The notification also mentions that certain posts i.e. Attenders, MNOs, FNOs and Stretcher Bearers would be recruited on outsourcing basis. In view of the notification, the Petitioners submitted their applications and were appointed in their respective posts after due selection process. However, the appointment of the Petitioners was made on outsourcing basis contrary to the recruitment notification apart from substantive variance in the pay.

5. It is stated that the Pradhan Mantri Swasthya Suraksha Yojana (PMSSY), a nation-wide scheme launched in March, 2006 to rectify all the healthcare facilities that were being provided to the citizens across the country. The scheme had the vision to provide equal medical and healthcare facilities to those living in rural areas, as compared with the urban population. In that context, the posts of MSW Gr.II, Radiographer, Receptionist, Junior Assistant, Storekeeper, Senior Assistant and Data Entry Operator have to be appointed on contract basis, but not on outsourcing basis. Even as per the recruitment notification, the above mentioned posts were to be made only on contract basis and not on outsourcing basis.

6. It is stated that the Petitioners submitted their representations on 17.08.2021, 25.10.2022, 24.11.2022 and 29.12.2022 respectively ventilating their grievance to change the mode of appointment and for payment of arrears from the date of appointment seeking appointment on contract basis and rectify the difference in pay. As the same is not being considered by the Respondents, the present Writ Petition is filed.

7. In the Counter-Affidavit filed by Respondent No.4, it is stated that Respondent No.2 had permitted to fill up 75 posts out of 111 posts of Staff Nurse, Paramedical, Pharmacist and other posts on an outsourcing/contract basis through the District Selection Committee and maintain Merit and Rule of Reservation vide Rc.No.4077/P1/2020, dated 29.06.2020.

8. It is further stated in the Counter-Affidavit that Respondent No.2 directed to fill up the posts of MSW Gr.II, Radiographer, Receptionist, Junior Assistant, Store Keeper, Senior Assistant and Data Entry Operator on a contract basis vide Rc.No.4077/P1/2020, dated 29.06.2020. Accordingly, Respondent No.4 has issued a notification for filling up of the above 75 posts vide Notification in Rc.No.100/GMC/ATP/2020, dated 13.07.2020 on contract basis.

9. It is further stated in the Counter-Affidavit that subsequently Respondent No.2 issued corrigendum that all posts other than Staff Nurse, Lab Technician and Pharmacists are to be filled-up on outsourcing basis instead of contract basis as per G.O.Ms.No.62, HM & FW (A1) Department, dated 10.06.2020 and later G.O.Ms.No.65, HM & FW (A1) Department, dated 11.06.2020 vide Rc.No.4077/P1/2020, dated 13.10.2020 of the Director of Medical Education, Andhra Pradesh Vaidya Vidhana Parishad, Vijayawada.

10. It is further stated that pursuant thereto Respondent No.4 issued a corrigendum to the Notification vide Rc.No.100/GMC ATP/2020, dated 13.10.2020, proposing for recruitment on outsourcing basis only. Accordingly, the Petitioners were issued appointment orders on an outsourcing basis. It is further stated that the remuneration is being paid by Respondent No.4 to the Petitioners through APCOS. Therefore, there is no illegality committed by the Respondents while issuing appointment orders.

11. **Contentions**: Learned counsel for the Petitioners would submit that there cannot be any discrimination in the manner of pay scales to the Petitioners, as both the contractual employees as well as outsourcing employees are discharging exactly similar duties. It is further stated that, as the notification mentions that the recruitment should be only on a

contract basis, the Respondents could not have unilaterally altered the recruitment without altering the notification without there being an amendment to the notification. It is further contended that conceptually, recruitment by “*outsourcing*” is not by the principal employer and in this case, the appointment by outsourcing is clearly a camouflage.

12. The learned Assistant Government Pleader would submit that the case of the Petitioners was recruitment as per Corrigendum Notification *vide* Rc.No.100/GMCATP/2020, dated 13.10.2020, issued by Respondent No.2 and it is not open to the Petitioners to raise this objection. He further submits that the Petitioners have accepted the appointment and engaged through APCOS, could not turn around at this length of time and seek for appointment on a contract basis.

13. Heard Sri Harinath Reddy Somagutta, learned counsel for the Petitioners and Sri S. Raju, learned Assistant Government Pleader appearing for the Respondents.

14. **Reasoning:** The State Government had issued G.O.Ms.No.60, Health, Medical and Family Welfare (A1) Department, dated 10.06.2020 for creation/sanction of 5701 posts and filling up of 1349 posts of Assistant Professor, Civil Assistant Surgeon (CAS) and Dental Assistant Surgeon (DAS) under the administrative control of Director of Medical

Education, Andhra Pradesh Vaidya Vidhan Parishad and Director of Public Health & Family Welfare.

15. As per the annexure to the said G.O., 111 posts of various categories were sanctioned to Respondent No.4-College. Subsequently, on the same day, G.O.Ms.No.62, Health, Medical and Family Welfare (A1) Department and G.O.Ms.No.63, Health, Medical and Family Welfare (A1) Department were issued by the State Government. As per G.O.Ms.No.62, dated 10.06.2020, 1021 posts should be filled up on outsourcing basis only in different categories in health institutions under the administrative control of Director of Medical Education and the Commissioner of Andhra Pradesh Vaidya Vidhana Parishad and Director of Public Health and Family Welfare.

16. Similarly, G.O.Ms.No.65, Health, Medical and Family Welfare (A1) Department, dated 11.06.2020 stating that the posts of Paramedical, Data Entry Operators and Others should be filled up on an outsourcing basis under the administrative control of the Director of Medical Education, Andhra Pradesh Vaidya Vidhana Parishad, and the Director of Public Health and Family Welfare. The said G.O., was issued specifically with reference to G.O.Ms.No.60, dated 10.06.2020, wherein permission was accorded for filling up the posts on a regular basis.

17. Without noticing G.O.Ms.No.65, dated 11.06.2020, the Director of Medical Education, Andhra Pradesh, Vijayawada *vide* Proceedings in Rc.No.4077/P1/2020, dated 29.06.2020 instructed all the Superintendents/Principals of Government Medical Colleges and teaching hospitals to fill up the posts of Staff Nurses, Paramedical Posts, Lab Technicians, Class-IV and Pharmacist on outsourcing/ contract basis through District Selection Committee and maintain Merit and Rule of Reservation in the recruitment process.

18. Consequent thereto, Respondent No.4 issued Job Notification vide Rc.No.100/GMC/ATP/2020, dated 13.07.2020 to fill up the vacancies specified therein on contract and outsourcing basis and called for applications from the eligible persons. The remuneration and qualification of the posts were also specified in the said notification. Noticing the omission of G.O.Ms.No.65, dated 11.06.2020, the Director of Medical Education, Andhra Pradesh with an intent to correct the error, had issued clarification Proceedings vide Rc.No.4077/P1/2020, dated 13.10.2020 instructing all Superintendents of teaching hospitals and Principals of Government Medical Colleges to fill up the said posts on outsourcing basis as per G.O.Ms.No.65, dated 11.06.2020.

19. It was in that context, Respondent No.4 issued a Corrigendum Notification was issued vide RC.No.4077/P1/2020, dated 13.10.2020 proposing to fill up the posts specified in the recruitment notification on an outsourcing basis.

20. To the extent of appointment on outsourcing basis, the same cannot be found fault, as the same is in consonance with the G.O.Ms.No.65, dated 11.06.2020, which was issued with reference to G.O.Ms.No.60, dated 16.06.2020. However, there is substantial variance in the scales of pay shown in the recruitment notification and in the orders of appointment of the Petitioners. The tabulated statement of some of the petitioners below would disclose the substantive variation.

Sl.No.	Name of the Employee	Post	Pay as per Recruitment Notification	Pay as per Appointment Order
1.	B. Sunil Kumar (Petitioner No.7)	Radiographer	Rs.30,660/-	Rs.17,500/-
2.	i) C. Upendar (Petitioner No.1) ii) J. Puspavathi (Petitioner No.5)	MSW Gr.II	Rs.34,000/-	Rs.17,500/-
3.	i) M. Praveen Kumar (Petitioner No.3) ii) K. Venkateswara Rao (Petitioner No.4)	Junior Assistant	Rs.22,387/-	Rs.15,000/-
4.	Bandi Poornamma (Petitioner No.9)	Senior Assistant	Rs.30,600/-	Rs.17,500/-
5.	E. Mahesh (Petitioner No.2)	Receptionist	Rs.22,387/-	Rs.15,000/-

21. The manner of engagement of employees by the State could be by way of outsourcing or contract basis, but there should not be any variance in the pay scales of the employees as the nature of work being discharged is the same. Such an approach would be discriminatory and not in consonance with the Articles 14 and 16 of the Constitution of India.

22. The Hon'ble Supreme Court in **State of Punjab v. Jagjit Singh and others**¹ had considered all these aspects and held that employees possessing requisite qualifications and appointed against posts, which were also available in regular cadre, performing similar duties and responsibilities as being discharged by regular employees holding same/corresponding posts, were entitled to claim wages on par with minimum pay scale of regular employees holding the same posts. Paragraphs 57 and 58 thereof are extracted below;

"57. There is no room for any doubt that the principle of "equal pay for equal work" has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India under Article 141 of the Constitution of India. The parameters of the principle have been summarised by us in para 42 hereinabove. The principle of "equal pay for equal work" has also been extended to temporary employees (differently described as

¹ 2017 (1) SCC 148

work-charge, daily wage, casual, ad hoc, contractual, and the like). The legal position, relating to temporary employees has been summarised by us, in para 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us yet again.

58. *In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation."*

23. Therefore, the Petitioners are held to be entitled for the remuneration to their posts as mentioned in the Proceedings of Respondent No.2 issued vide Rc.No.4077/P1/2020, dated 29.06.2020 and in the recruitment notification issued by Respondent No.4 vide Rc.No.100/GMC/ATP/2020, dated 13.07.2020 as there cannot be any variance to the remuneration of same work. The Respondents shall pay

the enhanced remuneration with effect from the date of Judgment and relief sought by Petitioners from the date of appointment is declined as that would be affect the budgets sanctioned for maintenance and development of Respondent No.4-Hospital, which is for the betterment of patients.

24. Therefore, the Writ Petition is disposed of with the following directions;

(i) The Respondents are directed to pay remuneration to the Petitioners as mentioned to the respective posts in Rc.No.4077/P1/2020, dated 29.06.2020 issued by Respondent No.2 and Recruitment Notification issued by Respondent No.4 vide R.C.No.100/GMC/ATP2020, dated 13.07.2020 with effect from today;

(ii) No order as to costs.

25. As a sequel, pending applications, if any, shall stand closed.

NYAPATHY VIJAY, J

Date: 20.11.2025

IS

HON'BLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION No.16237 of 2023

Date: 20.11.2025

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