

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD  
(Special Original Jurisdiction)**

WEDNESDAY, THE TWENTY EIGHTH DAY OF MAY  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

**WRIT PETITION NO: 8408 OF 2020**

**Between:**

1. Mallan Goud, S/o.Bheem Rai Goud, Age. 49 Yrs, Occ. P & E Constable, R/o. H. No.6-100, Kungsi Post, Krishna Mandal, New Narayanpet Dist.
2. A. Veeroji, S/o. Krishnaje Rao, Age. 50 yrs, Occ. P & E Constable, R/o. Plot No. 223 West, Phase- II, Vijayapuri Colony, Vanastalipuram, Hyderabad-500074.
3. Y. Ravi, S/o. Ashanna, Age. 50 yrs, Occ. P & E Constable, R/o. H.No. 1-36/1/13/B/105, Vidyanagar Colony, Chandanagar, Hyderabad- 50.
4. P.Narasimulu, S/o. Ramulu, Age. 50 yrs, Occ. P & E Constable, R/o. H.No. 10-6-24/10/D, Venkatadrinagar, Venugonda Vill, Mehaboobnagar Dist.
5. Jayaramulu, S/o. Chandru, Age. 52 yrs, Occ. P & E Constable, R/o.H.No. 42-31/1/B/7, Sainagar Colony, Wanaparthi Post and Dist.

**...PETITIONERS**

**AND**

1. The Commissioner of Prohibition and Excise, State of Telangana, Abkari Bhavan, Nampally Road, Hyderabad.
2. The District Prohibition and Excise Officer, Mehaboobnagar, Mehaboobnagar District.
3. The Deputy Commissioner of Prohibition and Excise, Mehaboobnagar, Mehaboobnagar District.
4. The State of Telangana, Rep. by its Principal Secretary, Prohibition and Excise Department, Secretariat Buildings, Hyderabad.

**...RESPONDENTS**

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 a Writ, Order or Direction more particularly one in the nature of writ of mandamus declaring the proceedings of the Respondent No.1, vide Cr.No. 02/2018/CPE/B2 dated 28-01-2020 and consequential proceedings vide Rc.No. A2/89/2014 dated 08-06-2020 of Respondent No.2 as arbitrary, illegal,

discriminatory, malafide and unconstitutional violating Articles 14, 16 and 21 of the Constitution of India apart from following the Principles of Natural Justice as well as contrary to the A.P/Telangana State Subordinate Service Rules and set aside the same and issue consequential direction, directing the respondents to forthwith consider the cases of the petitioners for promotion to the post of Prohibition and Excise Head Constables as per the seniority list basing the age as criteria in the existing vacancies.

**IA NO: 1 OF 2020**

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 forth with consider the cases of the Petitioners for promotion to the post of Prohibition and Excise Head Constable as per the seniority list based on the date of birth as criteria in the existing vacancies pending disposal of the Writ Petition.

**IA NO: 2 OF 2020**

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 operation of the proceedings vide Cr.No. 02/2018/CPE/B2 dated 28-01-2020 issued by the Respondent No 1 and consequential proceedings vide Rc.No. A2/89/2014 dated 08-06-2020 of Respondent No.2 pending disposal of this Writ Petition in the interest of justice.

**Counsel for the Petitioners: SRI P. VENKATA SUBBARAO**

**Counsel for the Respondents: GP FOR PROHIBITION AND EXCISE**

**The Court made the following: ORDER**

**HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

**WRIT PETITION No. 8408 OF 2020**

**ORDER:**

Heard Sri P. Venkata Subbarao, learned counsel for petitioners and learned Government Pleader for Prohibition & Excise for respondents.

2. This Writ Petition is filed by petitioners questioning the proceedings of Respondent No.1 vide Cr.NO.02/2018/CPE/B2 dated: 28-01-2020, and consequential proceedings of Respondent No.2 vide Proc Rc.No.A2/89/2014 dated: 08-06-2020.

3. It the case of Petitioners that they were initially appointed as A.P.S.P. Constable. Thereafter, they were deputed to work in Prohibition and Excise Department and were subsequently absorbed as Prohibition and Excise Constables based on G.O.Ms. No. 1103 Revenue (Exercise-1) Department dated 17-08-2007. Petitioners submitted their respective willingness for absorption as a Prohibition and Excise Constable and after his deputation on the strength of the order of the commissioner of Prohibition and Excise, and after obtaining options and willingness from Petitioners that they would abide by the seniority list. Petitioners were appropriately included in

the seniority list for promotion to the post of Head Constable, based on the existing seniority list wherein the date of absorption and age were adopted as the determining criteria. The original instructions issued by Respondent No.1 dated 21.01.2020, expressly mandated the preparation of seniority lists after inviting objections and in strict compliance with the applicable service rules. However, the subsequent proceedings issued by Respondent No.1 vide Cr.No. 02/2018/CPE/B2 dated 28.01.2020, directing re-fixation of seniority based on merit, constitute a deviation from the earlier lawful directions and lack any statutory or legal authority for their issuance.

4. It is further submitted that the Department issued final seniority list after considering objections, vide proceedings Rc. No. A2/89/2014, dated:08-06-2020, issued by the District Prohibition and Excise Officer, Mahabubnagar, Mahabubnagar District. The said final seniority list was published after due consideration of objections submitted by the concerned individuals. However, Petitioners, at present, does not possess details regarding the relevant period of said seniority list or the serial number at which his name was reflected. Respondent No.2 after receiving the proceedings dated 28-02-2020 from Respondent No.1 prepared final seniority list vide proceedings

dated: 08-06-2020, after issuing provisional seniority list vide proceedings Rc.No.A2/89/2014 dated: 10-02-2020, after obtaining objections from the effected parties by considering the merit lists instead of considering age criteria of the absorbed APSP Constables in to the Prohibition and Excise department. The APSP battalions have recruited the candidates on the basis of Physical efficiency test and there is no parameter for concluding for the merit of the candidate.

5. Respondent No.2 in their counter affidavit has stated that in 1995, approximately 2,200 Andhra Pradesh Special Armed Police (APSP) Constables were deputed to the State Excise Department, namely the Prohibition and Excise Department. Subsequently, by G.O.Ms.No. 1103, Revenue (Excise-I) Department, dated 17.08.2007, the Government directed absorption of 2,151 APSP Constables who were working on deputation in the Prohibition and Excise Department and declared surplus in the APSP. Such absorption was subject to adherence to the Andhra Pradesh Public Employment (Organization of Local Cadre and Regulation of Direct Recruitment) Orders, 1975, and other applicable Rules, following receipt of their unequivocal and irrevocable option to accept the pay scale applicable to Prohibition and Excise Constables. It was further directed that their seniority shall be

fixed from the last candidate in the existing seniority list of the Prohibition and Excise Constables. It is stated that upon completion of absorption and repatriation process, the preparation of the seniority list was initiated. The Commissioner of Prohibition and Excise, Telangana State, Hyderabad, requested the Inspector Addl. Director-General of APSP Battalions to furnish the merit/marks list of the APSP Constables. The Addl. Director-General informed that no State-wise merit list of APSP Constables exists. Consequently, the Commissioner directed Respondent No.2 to prepare and finalize the seniority list in accordance with Rules 33 and 36 of the A.P. State and Subordinate Service Rules, 1996, and the guidelines issued vide G.O.Ms.No.1103, Revenue (Excise-I) Department, dated 17.08.2007. Aggrieved, certain Constables petitioned the Commissioner, asserting that seniority must be finalized based on merit/marks as per the Rule of Reservation, and requested the Commissioner to obtain the merit/marks lists from the respective Commandants. Accordingly, the Commissioner of Prohibition and Excise, Telangana State, Hyderabad, addressed a letter to the Inspector General of Police, TSSP, Hyderabad, requesting the merit lists of the 1995 batch APSP Constables. The Inspector General furnished the merit lists vide Lr.No.606/A2/2017-18 dated 06.06.2017, obtained from the

respective Commandants. The Commissioner thereafter directed this office to revise and finalize the seniority list of Constables based on the merit/marks lists provided by the APSP Battalion Commandants.

6. Respondent No.2 filed counter contending that the Commissioner of Prohibition and Excise, Telangana communicated the merit list of A.P.S.P Constables recruited during 1995 furnished by the I.G., Battalions (Recruiting Agencies) and instructed to re-fix the seniority in terms of the orders issued by the this court in W.P. No. 31978 of 2018, W.P. No. 6701 of 2018, W.P. No. 26855 of 2019 and other W.P.s and also instructed all the nodal District Prohibition and Excise Officers to take care and to ensure that notices are issued to all the individuals affected by the process, calling for objections, if any. All the objections filed shall be listed and disposed of as per rules by issuing a proper speaking order. As mentioned supra, from the counter of Respondent No.2, it is evident that government had issued G.O.Ms.No.1103, Revenue (Ex.I) Department, dated: 17-08-2007 and instructions of the Commissioner of Prohibition and Excise, A.P., Hyderabad in Cr. No.17657/2007/CPE/H3, dated: 22-05-2009, wherein the Constable deputed to Prohibition and Excise Department, have

absorbed as Prohibition and Excise constable subject to following conditions:-

“1. Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 and other relevant rules which are in vogue.

2. They should be paid pay and allowances and Scale of pay on par with Prohibition and Excise Constables.

3. They shall forego the benefits attached to the Constables in Police Department.

4. Their seniority shall be fixed commencing from the last candidate in the existing seniority list of Prohibition and Excise Constables.

Hence, the petitioner contention is true”.

7. It is an admitted fact that the Commissioner of Prohibition and Excise, Hyderabad in Cr.No.02/2018/CPE/B2 dated: 21-01-2020 instructed to prepare the seniority list of Prohibition and Excise Constable in continuation to the existing seniority list and communicate to the individuals i.e. absorbed A.P.S.P. Constable as per Andhra Pradesh Sub-Ordinate Service, Rules 1996 and after absorption and after implementation of Presidential Orders and as per the instructions of the Commissioner of Prohibition & Excise, Hyderabad a seniority list was prepared by following the provisions of Rules 33 & 36 of A.P. State and Subordinate Service Rules, 1996 and upon guidelines issued vide G.O.Ms.No.1103, Revenue(Excise-I) Department, dated



17.8.2007 finalized and communicated vide this office Rc.No.A2/89/2014, dt.08.06.2020 basing on the merit list provided by the APSP Battalions. It is contended by Respondent No.2 that seniority list in the present case was communicated on 08-06-2020 and it is settled seniority list and Commissioner of Prohibition and Excise, T.S., Hyderabad being the Head of the Department had issued orders to all the Nodal District Prohibition & Excise Officers, to revise seniority list in terms of Merit. The said orders of Commissioner were passed based on the direction issued by this court, W.P. No. 31978 of 2018 and batch.

8. Certain Prohibition & Excise Constables of Rangareddy and Nizambad Districts filed W.P. No. 6701 of 2018 dated: 28-02-2018 and W.P. No. 26855 of 2019 seeking to prepare seniority list on Merit basis. In the common order in W.P. No. 31978 of 2018, dated: 18-09-2018, the direction given is that *"The Commissioner shall cause notice on all the affected parties and on due consideration of the respective objections, shall take appropriate decision as warranted by law and communicate the same to the parties"*.

9. Respondent No.2 further contended that in view of the furnishing of merit list of Inspector General of Police, TSSP vide letter No. 606/A2/2017-18, dated: 06/06/2017 the

commissioner P & E had directed to initiate the seniority list basing on the merit/marks list, thereby there is illegality in passing the orders which are impugned. APSP constables initially appointed as constables in APSP of Police Department, were sent on deputation to prohibition and excise department in the year 1995 and continued as such for some years. Subsequently, it was felt that the APSP constables who have put in more than three years of service in excise department, shall be repatriated to their parent department. But, later, the Government had taken decision to absorb 2151 APSP constables who were working on deputation in excise department by GOMs.No.1103 dated 17.08.2007, in the existing vacancies of excise constables duly following the provisions of the Presidential Order and other relevant rules which are in vogue. They were absorbed after obtaining unequivocal/irrevocable option from the APSP constable to the effect that they are willing to take scale of pay of prohibition and excise constables. In view of the undertaking and willingness given by way of option, their services were absorbed in various District units of the prohibition and excise during the year 2009, in terms of GOMs.No.1103 dated 17.08.2007. Though the said exercise was challenged by the interested persons the same were dismissed by the Tribunal by filing OA.No.3335 of 2004

and batch. The Tribunal upheld the orders issued in GOMs.No.1103 dated 17.08.2007, absorbing 2151 APSP constables in Prohibition & Excise Department. When the orders passed by the Tribunal were challenged before this Court, this Court also upheld the orders issued in GOMs.No.1103 dated 17.08.2007, in its order dated 26.03.2009 in WP.No.8573 of 2008 and batch.

10. The post of police constable in APSP is not a local cadre post, whereas the post of Prohibition and excise constable in the AP State excise service is in organized cadre, governed by the Presidential Order. As such, the post of APSP constable is a State-wide post and unit of appointment is not restricted to either Battalion or any unit. When merit list of APSP Battalion constables, who were deputed to the excise department is not available as informed by the DG APSP Battalion, vide proceedings C.No.363/A6/2012 dated 24.02.2012, there was no other option except to prepare a State list of APSP constables basing on the date of joining on deputation in prohibition and excise department. On completion of allotments, the appointment authorities felt that the only possible way for fixing the seniority list is to take date of joining on deputation in the excise department and date of birth of the candidates as per Rule 33 & 36 of the Andhra Pradesh State and Subordinate

Service Rules, 1996 ['APSSS Rules', for brevity). Accordingly, the Nodal Prohibition and Excise Superintendent have finalized the seniority of absorbed APSP constables as per Rules 33 & 36 of APSSS Rules and considered promotions to the next higher cadre of prohibition and excise head constable in some Districts where there were vacancies.

11. The Commissioner of Prohibition and Excise who is Respondent No.1 had initiated steps to prepare the seniority list of Excise Constables in the Excise Department based on the merit list as per Rule 33 to 38 of the APSSS Rules with reference to merit list of selection of APSP Constables who are later absorbed as Prohibition and Excise Constables and wants to unsettle the settled seniority of Excise Constables issued by Respondent No.2 in the seniority list dated 08.06.2020 which was prepared based on the date of joining on deputation in the Prohibition & Excise Department and date of birth. Basing on the list of APSP Constables absorbed as Prohibition and Excise Constables, combined seniority list has been prepared by the Commissioner of Prohibition and Excise taking the date of joining and age, if the date of joining is one and the same under Rule 33 to 36 of APSSS Rules. Basing on the list of absorbed APSP Constables, the Nodal Prohibition and Excise Superintendents concerned have prepared the seniority list of

Prohibition & Excise Constables basing on the date of joining and date of birth and promotion to the category of Prohibition and Excise Head Constables were considered. Now, that is sought to be disturbed by way of impugned proceedings.

12. The competent authority had issued seniority list taking into account date of joining/date of birth as the criterion to determine the seniority among absorbed APSP Constables as all APSP Constables absorbed as Excise Constables in the Excise Department duly rejecting the objections filed. The post of Constable in the State Prohibition and Excise Department is organized into a separate cadre as per the said provision. As per Para 3 (8) of the Presidential Order, Central Government is empowered to notify any category to be excluded from organization of local cadre. In exercise of powers under Para 3 (8) of the Presidential Order, Government of India has issued notification on 18.10.1975 in G.S.R.No.529/E, excluding all categories of posts in the Special Police Battalions from the purview of the Presidential Order, and in view of such notification, the post of Police Constable in APSP is not a local cadre post, whereas the post of Prohibition and Excise Constable in the A.P. State Excise service is in organized cadre, governed by the Presidential Order as such, the post of APSP Constable is a State-wide post and the unit of appointment is

not restricted to either Battalion or any unit. As per Rule 8(1)(a) of the Presidential Order, 80% of the posts are to be filled by direct recruitment from the local area of the unit and only 20% can be recruited from outside the unit i.e., District. The Director General, APSP Battalions vide C.No.363/A6/2012 dated 24.2.2012 informed that the merit list of APSP Constables who were deputed to Excise Department is not available. Therefore, there was no other option except to prepare a State list of APSP Constables basing on date of joining on deputation in Prohibition and Excise Department. Accordingly, an exercise has been taken up for implementing the Presidential Order taking the number of locals absorbed in the District and proportional 20% open quota to be filled from non-locals. Since the number of such Constables are more than the number that has given willingness, some Constables have to be compulsorily transferred to other Districts from where they are working at that time to maintain the minimum required proportion of Constables from local area i.e., 80%. Accordingly, three options have been called for from such Constables for allotment to the Districts other than where they are working at that point of time. On receipt of options, they have been allotted to the District opted by them or local area or nearby District with reference to availability of vacancies keeping in view the

Presidential Order. On completion of allotments, the appointing authorities felt that the only possible way for fixing the seniority list is to take date of joining and date of birth of the candidates under Rule 33 and 36 of APSSS Rules. Accordingly, Nodal Prohibition and Excise Superintendents have finalized the seniority of absorbed APSP Constables under Rule 33 and 36 of APSSS Rules and considered promotions to the next higher cadre of Prohibition and Excise Head Constables in some Districts where there are vacancies. Thereby the 1st Respondent had grossly erred in issuing the impugned proceedings.

13. From the facts and the pleadings, this Court comes to a clear conclusion that earlier the seniority list was prepared as per the provisions of Rule 33 to 38 of the APSSS Rules which include the determination of seniority based on the date of joining and age which method of determining seniority is in accordance with the provisions of the rules and is therefore valid and cannot be disturbed.

14. In the present case, it appears that the seniority list dated 08-06-2020 was prepared as per the provisions of Rule 33 to 38 of the said rules, which include the determination of seniority based on the date of joining and age. Further, the petitioners herein who are the affected parties were not arrayed as party respondents to the lis before this court in the earlier

round of litigation. As such, orders passed by this Court in W.P.No. 6701 of 2018 and W.P.No.31978 of 2018 are not binding on the petitioners.

15. Since it appears that there was no selection held for the purpose of promotion or appointment to the posts in question, seniority was determined based on the date of joining of absorbed APSP constables. This Court finds that in the absence of any selection list, it is not open to prepare a new seniority list based on the merit obtained in APSP Battalions as per Rule 33 of the APSSS Rules. Therefore, the settled final seniority list prepared and confirmed in earlier cannot be interfered with at this stage by the 1st Respondent Commissioner of Prohibition and Excise. The power to prepare and publish seniority lists is vested with the appointing authority or any other authority empowered to do so by the Government or any other competent authority. This Court finds that the 1st Respondent does not have the power or authority to direct the Nodal Officers to prepare a final seniority list based on the merit as per Rule 33 of the APSSS Rules, without any appeal being filed and without setting aside the said final seniority lists prepared in various Districts.

16. This court therefore, comes to a conclusion that seniority lists dated 08-06-2020 prepared is against the



provisions of Rules 33 to 38 of APSSS Rules based on the dates of joining and age is of valid and need to be interfered with. Further, this Court hereby held that 1st Respondent does not have the power or authority to direct the Nodal Officers to prepare a final seniority list based on the merit as per Rule 33 of the APSSS Rules.

17. The proceedings of Respondent No.1 vide Cr.No.02/2018/CPE/B2 dated: 28-01-2020 and consequential proceedings vide Rc.No.A2/89/2014 dated: 08-06-2020 of Respondent No.2 are set aside. Respondents are therefore, directed to forthwith consider the cases of petitioners for promotion to the post of prohibition and excise head constables as per the seniority list basing the age as criteria in the existing vacancies.

18. The Writ Petition is accordingly, allowed. No costs.

19. Consequently, Miscellaneous Applications, if any shall stand closed.

//TRUE COPY//

SD/-P. GOWRI SHANKAR  
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. The Commissioner of Prohibition and Excise, State of Telangana, Abkari Bhavan, Nampally Road, Hyderabad.
2. The District Prohibition and Excise Officer, Mahaboobnagar, Mahaboobnagar District.
3. The Deputy Commissioner of Prohibition and Excise, Mahaboobnagar, Mahaboobnagar District.
4. The Principal Secretary, Prohibition and Excise Department, State of Telangana, Secretariat Buildings, Hyderabad.
5. One CC to SRI P. VENKATA SUBBARAO, Advocate [OPUC]
6. Two CCs to GP for Prohibition & Excise, High Court for the State of Telangana at Hyderabad. [OUT]
7. Two CD Copies

MP  
BS

*MP*

**HIGH COURT**

**DATED:28/05/2025**



**ORDER**

**WP.No.8408 of 2020**

**ALLOWING THE WRIT PETITION  
WITHOUT COSTS**

(10)

*Lpr*  
*17/6/25*