
(2013) 04 AP CK 0046

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 13051 and 18722 of 2010 and W.V.M.P. No. 3742 of 2012

Andhra Pradesh Panchayat Raj Class-IV Employees Central Association

APPELLANT

Vs

The Government of Andhra Pradesh and Others
 The Government of Andhra Pradesh, The Commissioner of Panchayat Raj, The District Collector, Medak, Medak District and The District Collector, Adilabad, Adilabad District Vs K. Krishna Murthy and Others
 Nellore District Panchayat Raj Department Record Lab, Library Assistant Welfare Association Vs The Government of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 26-04-2013

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19, 28, 5(2), 5(6)
Constitution of India, 1950 — Article 14, 16, 226, 227, 309

Citation : (2013) 5 ALD 306 : (2013) 4 ALT 766

Hon'ble Judges : R. Subhash Reddy, J;B. Chandra Kumar, J

Bench : Division Bench

Advocate : D. Linga Rao in Writ Petition No. 13051 of 2010 and GP for Services II in WVMP No. 3742 of 2012, for the Appellant; Jagannadha Rao for Respondent 1 to 3 in WVMP No. 3742 of 2012 and for Respondent Nos. 7 to 9 in Writ Petition No. 13051 of 2010, Sri. P. Raghavendra Reddy, SC for Zilla Parishad for Respondent 4 and 5 in WVMP No. 3742 of 2012 and for Respondent No. 6 in Writ Petition No. 13051 of 2010, Sri. K. Venkateswarlu and for Respondent Nos. 13 to 25 in Writ Petition Nos. 13051 of 2010, Sri G. Vasantha Rayudu for Respondent Nos. 26 and 27 in WVMP No. 3742 of 2012, Sri. Bajrang Singh Thakur for Respondent Nos. 10 and 11 in Writ Petition Nos. 13051 of 2010, Sri J.R. Manohar Rao for Respondent Nos. 9 to 18 and 20 to 25 in WVMP No. 3742 of 2012 and Sri. C. Subodh for Respondent No. 29 in WVMP No. 3742 of 2012, for the Respondent

Final Decision : Dismissed

Judgement

R. Subhash Reddy, J.—Both the writ petitions are filed questioning the order, dated 29.04.2010, passed by the A.P. Administrative Tribunal, Hyderabad, in O.A. No. 860 of 2009. W.P. No. 13051 of 2010 is filed by the Andhra Pradesh Panchayat Raj Class-IV Employees Central Association, by obtaining leave of this Court, whereas, W.P. No. 18722 of 2010 is filed by the Government through its Secretary (Services), General Administration Department. As much as common questions of law arise for consideration on similar set of facts, both the writ petitions are heard together and are being disposed of by this common order. For the purpose of disposal, we refer to the facts as narrated in W.P. No. 13051 of 2010 and refer to the parties as arrayed before the Tribunal.

2. Respondents 7 to 9 herein are applicants before the Tribunal. In the application in O.A. No. 860 of 2009, they have challenged the orders of the Government in G.O.Ms. No. 738, GAD, dated 22.12.2008, by which, amendments were made to Note (17) of Rule 3 of A.P. Ministerial Service Rules, 1998 framed in exercise of powers under proviso to Article 309 of Constitution of India. By impugned order, the Tribunal has allowed the O.A. filed by the applicants, with a direction to the official respondents in the O.A. to consider the claim of applicants for promotion to the post of Junior Assistant as per the amendments made vide G.O.Ms. No. 365, GAD, dated 17.08.2005.

3. The applicants are working as Record Assistants and their services are governed by A.P. State and Subordinate Services Rules, 1996. The posts of Attender/Office Subordinate and its equivalent cadres are governed by A.P. Last Grade Service Rules, 1992 and the post of Junior Assistant and its equivalent cadres are governed by A.P. Ministerial Service Rules, 1998. The only method of recruitment to the post of Record Assistant is by way of transfer from the post of Office Subordinate and its equivalent cadres. The applicants, who are working as Record Assistants, are eligible and qualified for promotion to the post of Junior Assistant. As per the A.P. Ministerial Service Rules, 1998, the posts of Junior Assistant and its equivalent cadres are to be filled up by way of promotion from the feeder category of Record Assistant and other equivalent cadres, Attenders and equivalent other cadres in the A.P. Last Grade Service in the ratio of 1:2:7 between Group-I, Group-II and Group-III in a unit of 10 vacancies. As per the amended rule, the post of Record Assistant is categorized under Group-II, whereas the posts of Attender and other equivalent cadres of A.P. Last Grade Service, are categorized under Group-III. In terms of the amended Rules, out of 10 vacancies of Junior Assistant, only 2 vacancies are meant for Record Assistant and other equivalent cadres and 7 vacancies are meant for inferior category posts of Attender and other equivalent cadres. Prior to making amendments to the A.P. Ministerial Service Rules, 1998 vide G.O.Ms. No. 365, GAD, dated 17.08.2005, the aforesaid Rule was in force. In view of the representations made by the Service Associations, orders were issued amending the A.P. Ministerial Service Rules, 1998 vide G.O.Ms. No. 365, GAD, dated 17.08.2005 by amending Note (17) of Rule 3 of the A.P. Ministerial Service Rules, 1998. In view of the said amendment, the posts of Junior Assistant in the cycle mentioned in Note (5) and

Note (14) are being filled up from the feeder category of Record Assistant and equivalent cadres under A.P. General Subordinate Service Rules and in the event if qualified Record Assistants are not available, then only the Attenders/Office Subordinates and other equivalent categories in the A.P. Last Grade Service are being considered for promotion to the post of Junior Assistant/Typist etc. In terms of the amended Rules, a seniority list of Record Assistants was prepared and promotions are being effected to the post of Junior Assistant from the date of issuance of G.O.Ms. No. 365, dated 17.08.2005. In terms of the said Rule, the Last Grade employees, who are governed by the provisions under the A.P. Last Grade Service Rules of 1992, are being promoted to the post of Record Assistant, and thereafter, they are being considered for promotion to the post of Junior Assistant if they are eligible and qualified to hold the post of Junior Assistant. At that stage, again, amendments are ordered by the Government vide the G.O. impugned in the O.A. i.e. G.O.Ms. No. 738, GAD, dated 22.12.2008, cancelling the earlier amendments made vide G.O.Ms. No. 365, dated 17.08.2005 and restoring the position existed under Note (17) of Rule 3 of the A.P. Ministerial Service Rules, 1998 prior to issuance of G.O.Ms. No. 365, dated 17.08.2005.

4. The said amendments ordered by the Government vide G.O.Ms. No. 738, dated 22.12.2008, amending Note (17) of Rule 3 of A.P. Ministerial Service Rules, 1998, is challenged by the applicants before the Tribunal, mainly on the ground that said amendments are arbitrary, illegal and irrational. Mainly, it was the case of applicants before the Tribunal that only seniormost candidates in the category of Attender/Office Subordinate and equivalent categories governed by A.P. Last Grade Service Rules, 1992, are being appointed as Record Assistants, but by virtue of amendments, the post of Record Assistant is categorized under Group-II and the posts of Attender and other equivalent cadres are categorized under Group-III, and in a cycle of 10 vacancies, only 2 vacancies are meant for Record Assistant and other equivalent cadres, whereas 7 posts are meant for inferior categories i.e. Attender/Office Subordinate and equivalent cadres.

5. Counter affidavit is filed before the Tribunal, opposing the claim of applicants. It was the case of respondents that the number of posts in the A.P. Last Grade Service would be more than the Record Assistants, and in some offices, the post of Record Assistant does not exist at all. It is stated that therefore, keeping in view the said facts and after detailed discussions with several Service Associations, the Government have restored the position existed prior to the issuance of G.O.Ms. No. 365, dated 17.08.2005, as such, it cannot be said that the amended Rules are either discriminatory or illegal.

6. The Tribunal, by considering the various contentions advanced by the parties, has declared the amendments made vide G.O.Ms. No. 738, dated 22.12.2008 as unreasonable, irrational and offends Articles 14 and 16 of the Constitution of India. While quashing the amendments made vide G.O.Ms. No. 738, dated 22.12.2008, the Tribunal has declared that the applicants and similarly placed persons who are working as Record Assistants, are entitled to be considered first,

for promoting as Junior Assistants as per the amendments made vide G.O.Ms. No. 365, dated 17.08.2005, and if there are no qualified Record Assistants, respondents are at liberty to promote Attenders/Office Subordinates and other Last Grade employees to the post of Junior Assistant.

7. Heard Sri D. Linga Rao, learned counsel for petitioners, Learned Government Pleader for Services-II, appearing for official respondents, and also the learned counsel appearing for the impleaded respondents.

8. In this writ petition, it is contended by Sri D. Linga Rao, learned counsel for petitioner that without recording any valid reasons, the Tribunal has quashed the amendments made to the A.P. Ministerial Service Rules, 1998, vide G.O.Ms. No. 738, dated 22.12.2008. It is submitted that in view of the provision u/s 19 of the Administrative Tribunals Act, 1985, the Tribunal is not competent to decide the vires of the Rule, as its jurisdiction is confined to adjudicate on the validity of the orders passed by the Government and other Governmental agencies, but it is not competent to test the vires of the amendments made to the Rules framed under proviso to Article 309 of Constitution of India. It is further submitted by the learned counsel that the impugned amendments are made only basing on the representations made by the employees associations, and as a matter of policy, the Government have amended the Rules taking into account the more number of posts held by Office Subordinates and equivalent cadre employees, as such, only on the ground that chances for promotion are bleak for Record Assistants for promotion to the post of Junior Assistant, the applicants cannot question the same. It is submitted that the Tribunal has exceeded its jurisdiction and allowed the O.A. without recording valid reasons, as such, the judgment of the Tribunal is fit to be set aside, In support of his argument, the learned counsel has placed reliance on a Full Bench judgment of this Court in the case of G. Narasimha Rao Vs. Regional Joint Director of School Education and Others, and on the judgment of Supreme Court in the case of P.U. Joshi and Others Vs. The Accountant General, Ahmedabad and Others,

9. On the other hand, based on the affidavit filed in support of the writ petition in W.P. No. 18722 of 2010, which is also filed questioning the order of the Tribunal, it is argued by the learned Government Pleader for Services-II that the impugned amendments are made in view of the policy decision taken by the Government, based on the representations made by the Employees Associations, and that providing feeder categories in the Rules is entirely within the domain of the Government as Rule making authority, as such, it is not open for the Tribunal to strike down such Rules in the absence of any basis to show that such Rules are either irrational or arbitrary.

10. The learned counsel appearing for the impleaded respondents have opposed the claim of petitioners, submitting that the Rules framed vide G.O.Ms. No. 738, dated 22.12.2008 are illegal and irrational, as such, they are rightly set aside as they are offending the rights of Record Assistants conferred under Article 14 of the Constitution of India and such Rules are made without any reasonable

classification. It is submitted that even the Rules framed in exercise of powers under proviso to Article 309 of the Constitution have to stand to scrutiny under Article 14 of the Constitution, and when such Rules are framed irrationally and illegally, it is always open for the Tribunal to quash the same.

11. Before we deal with the submissions made on either side, it is necessary to notice certain factual aspects and the Rules relevant for the purpose of disposal of these writ petitions.

12. The appointment and service conditions of Attenders/Office Subordinates are governed by the A.P. Last Grade Service Rules, 1992, which are also framed under proviso to Article 309 of the Constitution of India. The post of Record Assistant is governed by the provisions under A.P. State and Subordinate Services Rules, 1996. The posts of Junior Assistants and equivalent cadres are also governed by the Rules framed under proviso to Article 309 of the Constitution, which are titled as the A.P. Ministerial Service Rules, 1998. It is relevant to note that there is no direct recruitment to the post of Record Assistant governed by the provisions under A.P. State and Subordinate Services Rules, 1996. The only method of recruitment to the post of Record Assistant is by way of transfer from the posts of Office Subordinate and equivalent cadres, governed by the A.P. Last Grade Service Rules, 1992. Rule 3 of A.P. Ministerial Service Rules, 1998 provides the method of appointment to various categories of posts governed by the provisions under the said Rules. Category-III in Rule 3 provides the method of appointment to the posts of Junior Assistants including the other posts categorized as such in Rule 2. As per the said Rules, the methods of appointment are - (i) by direct recruitment, (ii) by conversion of Assistant-cum-Typist/Telephone Operators and the posts included in Category 4 of Class B who are qualified as provided in Rules 14 and 16, (iii) by appointment by transfer of Record Assistants and other equivalent categories in A.P. General Subordinate Service and (iv) by appointment by transfer of members of A.P. Last Grade Service.

13. Note (5) and Note (17) of Rule 3, which are relevant for the purpose of disposal of these writ petitions, read as under :

Note (5) :- The vacancies of Junior Assistants (Category 3 of Class-A) and Assistant-cum-Typist (Category 4 of the Class-A) shall be filled in a unit of 10 vacancies as indicated below:

1st Vacancy :-By appointment of Junior Assistants and Assistant-cum-Typists working in the subordinate offices, where the unit of appointment is the office of the Head of Department or Directorate.

2nd Vacancy:-By Direct Recruitment.

3rd Vacancy:-By Direct Recruitment.

4th Vacancy:-By Direct Recruitment.

5th Vacancy:-Appointment by conversion from the categories of Typist, Junior Stenographers and Telephone Operators working in the unit of appointment of the Department as per Rule Hand 16.

6th Vacancy:-Appointment by transfer from lower categories like Record Assistants, Attenders etc., working in the unit of appointment of the Department as in Note 17.

7th Vacancy:-By appointment of Junior Assistant and Assistant-cum-Typists working in the subordinate offices, where the unit of appointment is the office of the Heads of Department or Directorate.

8th Vacancy:-By Direct Recruitment.

9th Vacancy:-By Direct Recruitment.

10th Vacancy:-By Direct Recruitment.

Note (17):- In the cycles mentioned in Notes (5) and (14) in respect of the appointments to the categories of Junior Assistant, Assistant-cum-Typist, Junior Stenographer and Typists from the feeder category of Record Assistants and other equivalent categories in the Andhra Pradesh General Subordinate Service and Office Subordinate and other categories in the Andhra Pradesh Last Grade Service, eligible persons from these categories shall be divided into three groups as indicated below and the appointments as between the groups I, II and III shall be in the ratio of 1:2:7 respectively, in a unit of 10 vacancies:

GROUP-I: Lift Operators, Motor Cycle Messengers, Drivers, Xerox Operators and Shroffs including cashiers;

GROUP-II: Record Assistants, Roneo Duplicating Operators;

GROUP-III: Office Subordinates, Chowkidars, Sweepers, Scavengers, Cycle Orderlies and other categories in the Andhra Pradesh Last Grade Service.

Appointment to the posts of Junior Assistants, Assistant-cum-Typist, Junior Stenographers and Typists shall be made from among the above three groups, in the order of rotation specified below, in every cycle of ten vacancies:-

14. Note (17) as extracted above, is in terms of the amendment made by G.O.Ms. No. 738, dated 22.12.2008. Even prior to making amendments to the A.P. Ministerial Service Rules, 1998 vide G.O.Ms. No. 365, dated 17.08.2005, Note (17) of Rule 3 was in same terms. Prior to making amendments vide G.O.Ms. No. 365, dated 17.08.2005, there were representations from the Employees Associations, bringing to the notice of the Government that the persons in the category of Record Assistant etc. in the Andhra Pradesh General Subordinate Service, who are promoted to the said category from the category of Attender etc. in A.P. Last Grade Service, are not getting subsequent promotions as Junior Assistant etc. in the Andhra Pradesh Ministerial Service earlier to the Attenders who are their juniors when they are in the A.P. Last Grade Service

before they are promoted as Record Assistants etc., as such, the Government, by considering the various representations, amended the Rules in 2005, particularly amending Note (17) of Rule 3 of the A.P. Ministerial Service Rules, 1998. While making amendments by way of G.O.Ms. No. 365, dated 17.08.2005, a categorical observation is made that there is no provision for direct recruitment to the post of Record Assistant and the method of appointment to the post of Record Assistant is by appointment by transfer of a person from the A.P. Last Grade Service in the concerned Unit in the department concerned or by transfer of a Roneo Duplicating Operator or Xerox operator. It is further observed that as per the revised A.P. General Subordinate Service Rules, Record Assistant category is being filled up only by appointment by transfer from the category of Attender in the A.P. Last Grade Service. After amendment made to Note (17) vide G.O.Ms. No. 365, dated 17.08.2005, it reads as under:

In the cycles mentioned in Notes (5) and (14) in respect of the appointments to the categories of Junior Assistants, Assistant-cum-Typists, Junior Stenographers and Typists/L.D. Typists from the feeder category of Record Assistants and equivalent categories in Andhra Pradesh General Subordinate Service Rules and Attenders and other categories in Andhra Pradesh Last Grade Service Rules, the eligible person from the category of Record Assistant and equivalent categories in Andhra Pradesh General Subordinate Service Rules shall be considered first for appointment by transfer to the categories mentioned in Note (5) and (14) and when suitable persons in the categories in Andhra Pradesh General Subordinate Service Rules are not available, the Attenders and other categories in Andhra Pradesh Last Grade Service Rules have to be appointed by transfer to the categories mentioned in Note (5) and (14).

15. From the above mentioned scenario under various Rules framed in exercise of powers under proviso to Article 309, it is clear that appointment to the post of Record Assistant is only by way of transfer from the category of employees governed by A.P. Last Grade Service Rules. In view of the same, the seniormost member in the category of Office Subordinate and equivalent categories is being appointed to the post of Record Assistant by virtue of his seniority. As per the amendment made to Note (17) of Rule 3 of the A.P. Ministerial Service Rules, 1998, vide G.O.Ms. No. 365, dated 17.08.2005, a provision is made for appointment to the post of Junior Assistant and its equivalent cadres, first, from the category of Record Assistants and equivalent categories in A.P. General Subordinate Service Rules, and only when suitable persons in A.P. General Subordinate Service are not available, the Office Subordinates and other categories are to be appointed by transfer to the categories mentioned in Note (5) and (14) of Rule 3. But, contrary to the amendments made to the said Rules, further amendments are made by the Government vide G.O.Ms. No. 738, dated 22.12.2008, amending Note (17). As per the amended note, feeder categories to the posts of Junior Assistant and equivalent cadres are divided into three groups and the said Rule further provides slots for each category for promotion to the post of Junior Assistant in the cycle of 10, which reads as under :

GROUP-I: Lift Operators, Motor Cycle Messengers, Drivers, Xerox Operators and Shroffs including cashiers;

GROUP-II: Record Assistants, Roneo Duplicating Operators;

GROUP-III: Office Subordinates, Chowkidars, Sweepers, Scavengers, Cycle Orderlies and other categories in the Andhra Pradesh Last Grade Service.

16. From a perusal of the aforesaid amendment, it is clear that in a cycle of 10, only 2 vacancies are to be filled from the feeder category of Record Assistant, which is in Group-II, 7 vacancies are to be filled from Group-III, and one vacancy from Group-I. The said amendment resulted in a peculiar situation, where a candidate belonging to A.P. Last Grade Service being seniormost in the said category is appointed to the post of Record Assistant governed by A.P. General Subordinate Service Rules, his further chances are reduced drastically, as, in a cycle of 10, only 2 vacancies are meant for promotion of such Record Assistants to the post of Junior Assistant, whereas, the candidate who was junior to the candidate in the category of A.P. Last Grade Service, before being promoted to the post of Record Assistant, is made eligible for consideration for promotion to the post of Junior Assistant in 7 vacancies under Group-III in a cycle of 10. On account of this ratio, the Record Assistants who are seniors in the Last Grade category, are remaining as Record Assistants while the Attenders/Office Subordinates who are far juniors to the Record Assistants, are promoted to the higher post of Junior Assistant. Though original category is one and the same in the Last Grade Service, as much as there is no direct recruitment to the post of Record Assistant, it is resulting in arbitrary situation giving wider scope for promotion to the juniors than the promoties who are promoted to the post of Record Assistant. Such a Rule, which is framed vide G.O.Ms. No. 738, dated 22.12.2008, is certainly arbitrary and irrational and does not stand to any reasonable classification, and it also offends Articles 14 and 16 of the Constitution.

17. Though it is the contention of the learned counsel for petitioner in W.P. No. 13051 of 2010 that there is no authority to the Tribunal to test the vires of the Rule, it is too late in the day to accept such a preposition advanced by the learned counsel. In the judgment relied on by the learned counsel for petitioner in the case of G. Narasimha Rao (1 supra), a Full Bench of this Court has held that the Tribunal constituted under Administrative Tribunals Act, 1985, has no jurisdiction to condone the delay in filing review petition. The said judgment would not render any assistance in support of the case of the petitioner at all. Though it is the contention of the learned counsel that Section 19 of the Administrative Tribunals Act empowers the Tribunal to test the validity of the orders passed by the Government and Governmental agencies alone, such a question is no more *res Integra* in view of the authoritative pronouncement made by the Hon''ble Supreme Court in the case of L. Chandra Kumar Vs. Union of India and others, . In the aforesaid judgment, the Hon''ble Supreme Court has categorically held that the Tribunals created under Article 323A and 323B of the

Constitution, are possessed of the competence to test the constitutional validity of Statutory provisions and Rules. Paragraphs 98 and 99 of the said Judgment, which are relevant for the purpose of present writ petitions, read as under :

98. Since we have analysed the issue of the constitutional validity of Section 5(6) of the Act at length, we may now pronounce our opinion on this aspect. Though the vires of the provision was not in question in Dr. Mahabal Rams case, 1994 (2) SCC 401 , we believe that the approach adopted in that case, the relevant portion of which has been extracted in the first part of this judgment, is correct since it harmoniously resolves the manner in which Sections 5(2) and 5(6) can operate together. We wish to make it clear that where a question involving the interpretation of a statutory provision or rule in relation to the Constitution arises for the consideration of a single Member Bench of the Administrative Tribunal, the proviso to Section 5(6) will automatically apply and the Chairman or the Member concerned shall refer the matter to a Bench consisting of at least two Members, one of whom must be a Judicial Member. This will ensure that questions involving the vires of a statutory provision or rule will never arise for adjudication before a single Member Bench or a bench which does not consist of a Judicial Member. So construed, Section 5(6) will no longer be susceptible to charges of unconstitutionality.

99. In view of the reasoning adopted by us, we hold that Clause 2(d) of Article 323A and Clause 3(d) of Article 323B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/ 227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323A and 323B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/ 227 and upon the Supreme Court under Article 32 of the Constitution is part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other Courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/ 227 and 32 of the Constitution. The Tribunals created under Article 323A and Article 323B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the concerned Tribunal falls. The Tribunals will, nevertheless, continue to act like Courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the concerned Tribunal. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated.

Coming to the further judgment relied on by the learned counsel for petitioner in the case of P.U. Joshi (2 supra), it is held by the Hon''ble Supreme Court in the

said judgment that the matter relating to amendments made to Rules framed under Article 309, providing ratio in the feeder categories for the purpose of promotions, is a policy matter and it is the discretion of the State, and that the Tribunals cannot interfere with the same in exercise of power under Judicial review. But in the very same judgment, the Hon''ble Supreme Court has held that such power of the State is subject to limitations and restrictions envisaged in the Constitution. Whether any particular Rule or amendment made to a particular Rule is irrational or illegal, is a matter that depends on facts of each case. No doubt, the Rules regulating the conditions of service are within the exclusive domain of the State under the proviso to Article 309, but even so, such rules have to be reasonable, fair and not grossly unjust, if they are to survive the test of Articles 14 and 16. Coming to the facts of the case, we are of the view that the impugned amendments made vide G.O.Ms. No. 738, dated 22.12.2008, are not reasonable and are grossly unjust and they do not survive the test of Articles 14 and 16, as much as the seniormost employees in A.P. Last Grade Service who are promoted to the post of Record Assistant, are unduly deprived of their chances for promotion to the further superior posts of Junior Assistant or its equivalent categories under A.P. Ministerial Service Rules, 1998. For the aforesaid reasons, we are in agreement with the reasoned order passed by the Tribunal in O.A. No. 860 of 2009. Both the writ petitions are accordingly dismissed, confirming the order, dated 29.04.2010, passed by the Tribunal in O.A. No. 860 of 2009. As there was an interim order during the pendency of these writ petitions and as it is brought to our notice that certain promotions are already effected in terms of the impugned G.O.Ms. No. 738, dated 22.12.2008, we declare that this order will not have any effect on the promotees who are promoted based on the orders issued vide G.O.Ms. No. 738, dated 22.12.2008. It is further directed that henceforth, the vacancies in the category of Junior Assistant and other equivalent categories governed by the A.P. Ministerial Service Rules, 1998, shall be made without reference to the impugned amendments made vide G.O.Ms. No. 738, dated 22.12.2008, but the same shall be made by following the earlier amendments made to Rule 3 vide G.O.Ms. No. 365, dated 17.08.2005. No costs.

As a sequel, miscellaneous petitions if any, pending in these writ petitions, shall stand closed.