

(2025) 01 TEL CK 1641

In the Telangana High Court

Case No : Writ Petition Nos.232 And 383 Of 2025

K. Narendar, S/o. Yadagiri

APPELLANT

Vs

V. Nageswara Rao, S/o. Talababy

RESPONDENT

Date of Decision : 09-01-2025

Acts Referred:

Citation : (2025) 01 TEL CK 1641

Hon'ble Judges : Surepalli Nanda, J

Bench : Division Bench

Advocate : S.Keshava Rao, G.Ravi Chandra Sekhar

Final Decision : Disposed Of

Judgement

Abhinand Kumar Shavili, J

1. Since the issue involved in both these Writ Petitions is one and the same, both these Writ Petitions are being heard and disposed of by way of this common order.

2. Aggrieved by the interlocutory order, dated 24.12.2024, passed in M.A.No.755 of 2024 in O.A.No.2366 of 2024 by the Central Administrative Tribunal, Hyderabad (Telangana) (for short, 'the Tribunal'), both the Writ Petitions are filed by some of the respondents in the said O.A.

3. Heard Sri A. Venkatesh, learned Senior Counsel representing Ms. Dornala Sai Mahitha, learned counsel for the petitioners in W.P.No.383 of 2025; Sri K.R.K.V. Prasad, learned counsel for the petitioners in W.P.No.232 of 2025; learned Additional Solicitor General of India representing Ms. L. Pranathi Reddy, learned Senior Standing Counsel for Central Government, appearing for the official respondents; and Sri Goda Siva, learned Senior Counsel representing Sri K. Siva Reddy, learned counsel appearing for the respondents-applicants.

4. For the sake of convenience, the facts and the submissions made in W.P.No.383 of 2025 are hereunder discussed.

5. Learned Senior Counsel appearing for the petitioners had contended that the respondent-railways have issued a notification on 26.10.2020 for filling up the post of Junior Engineer/Permanent Way against 20% Limited Departmental Competitive Examination quota. The selections were to be made based upon the written examination, consisting of Paper-I and Paper-II, and perusal of Service Record. However, certain modifications were made to the said notification by issuing a modified notification on 31.08.2021. In all, 455 candidates were qualified and of the said 455 candidates, 53 candidates are required to be selected. Earlier, on 18.04.2023, the respondent-railways have finalized the selections and that was the subject matter of O.A.Nos.295 of 2023 and 367 of 2024 before the Tribunal and the Tribunal was pleased to set aside the selections by way of common order, dated 08.05.2024.

6. Aggrieved by the said common order, dated 08.05.2024, the selected candidates, unsuccessful candidates and several others have approached this Court by filing W.P.No.13511 of 2024 and batch and this Court, vide common order, dated 30.09.2024, was pleased to confirm the common order, dated 08.05.2024, passed by the Tribunal, however, directed the respondent-railways to finalize the selections after taking into account the Annual Performance Appraisal Reports (for short, 'APAR') of three years prior to the issuance of notification, dated 26.10.2020.

7. In pursuance of the common order, dated 30.09.2024, passed by this Court, the respondent-railways have finalized the selections and the petitioners were selected as Junior Engineers/Permanent Way and they were promoted vide proceedings, dated 14.12.2024. While so, the respondents-applicants have challenged the selections once again before the Tribunal by filing the subject O.A.No.2366 of 2024 and the Tribunal vide impugned order, dated 24.12.2024, was pleased to suspend the proceedings, dated 14.12.2024.

8. Learned Senior Counsel appearing for the petitioners had further contended that the Tribunal has suspended the proceedings, dated 14.12.2024, without hearing the petitioners and that since the Tribunal has suspended the proceedings, dated 14.12.2024, the respondent-railways have reverted the petitioners from the post of Junior Engineer/Permanent Way to their respective substantive posts

vide reversion order, dated 31.12.2024.

9. Learned Senior Counsel appearing for the petitioners had further contended that before passing the impugned order, dated 24.12.2024, the Tribunal ought to have atleast given notice and opportunity to the petitioners to represent their case. But, without hearing the petitioners, the Tribunal has suspended the promotion proceedings, dated 14.12.2024. The Tribunal has passed an ex parte interim order, without hearing the petitioners and the rights of the petitioners were severely affected.

10. Learned Senior Counsel appearing for the petitioners, in support of his

submissions, relied upon the judgment of the Honourable Supreme Court in *AIIMS v. Sanjiv Chaturvedi and others*(2020) 17 SCC 602, wherein the Honourable Supreme Court has held that Section 24 of the Administrative Tribunals Act, 1985, limits the power to pass interim order whether by way of injunction, stay or otherwise by imposing conditions on the exercise of such power. No interim order is to be made unless copies of the application along with documents in support of the plea for interim order are furnished to the party against whom such application is made and an opportunity to be heard is given to such party. Learned Senior Counsel had further contended that, admittedly, in the instant case, though the petitioners were impleaded as party respondents in the subject O.A., the copies of the subject O.A. were not furnished to the petitioners and no opportunity was extended to the petitioners before passing the impugned order, dated 24.12.2024, against the petitioners. Therefore, appropriate orders be passed in the Writ Petition by setting aside the impugned order, dated 24.12.2024, passed by the Tribunal and further, direct the respondent-railways to continue the petitioners as Junior Engineers/Permanent Way with all consequential benefits.

11. Learned Additional Solicitor General of India appearing for the official respondents had contended that since this Court has directed the respondent-railways to finalize the selections, the respondent-railways have finalized the selections in accordance with the Rules governing and that was being found fault by the respondents-applicants. Therefore, the Tribunal has suspended the promotion orders of the petitioners. Learned Additional Solicitor General had further contended that the promotion exercise done by the respondent-railways was strictly in accordance with the common order, dated 30.09.2024, passed by this Court in W.P.No.13511 of 2024 and batch. Therefore, the Tribunal ought not to have interfered with the promotion orders of the petitioners.

12. On the other hand, learned Senior Counsel appearing for the respondents-applicants had contended that this Court was pleased to dispose of W.P.No.13511 of 2024 and batch vide order, dated 30.09.2024, wherein it was made clear that Service Records prior to issuance of notification, dated 26.10.2020, should only be considered. Once the notification is issued, the Service Records of three years prior to the issuance of notification alone have to be looked into, but the respondent-railways have finalized the selections by looking into the Service Records even after issuance of the notification, dated 26.10.2020, i.e. upto 2021, which is not permissible and is not in consonance with the order, dated 30.09.2024, passed by this Court and that necessitated the respondents-applicants to challenge the selections afresh by filing the subject O.A. The Tribunal has rightly suspended the proceedings, dated 14.12.2024, which is contrary to the common order, dated 30.09.2024, passed by this Court. If the petitioners are aggrieved by the suspension of proceedings, dated 14.12.2024, they are entitled to file vacate petition, but filing the present Writ Petition is not a right course. Therefore, there are no merits in the present Writ Petition and the same is liable to be dismissed.

13. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the considered view that the respondent-railways have finalized the selections contrary to the common order, dated 30.09.2024, passed by this Court in W.P.No.13511 of 2024 and batch, whereby, this Court has categorically held that Service Records of three years prior to the notification only should be taken into account for the purpose of finalizing the selections. Admittedly, the respondent-railways have finalized the selections by taking into account the Service Records of the period beyond the notification, dated 26.10.2020, which is not permissible. Therefore, the Tribunal was justified in suspending the proceedings, dated 14.12.2024.

14. So far as the judgment of the Honourable Supreme Court in Sanjiv Chaturvedi's case (supra), relied upon by the learned Senior Counsel appearing for the petitioners in W.P.No.383 of 2025, is concerned, the said judgment also states that in exceptional circumstances and for reasons to be recorded in writing, the Tribunal can always grant ex parte order. Admittedly, in the instant case, the Tribunal has given elaborate reasons before passing the ex parte order suspending the proceedings, dated 14.12.2024. Therefore, the Tribunal was justified in passing a detailed speaking order for suspending the proceedings, dated 14.12.2024. Therefore, this Court is not inclined to entertain the present Writ Petitions on this ground also.

15. In view of the same, this Court is of the view that the present Writ Petitions can be disposed of by directing the respondent-railways to finalize the selections strictly in accordance with the observations made by this Court vide common order, dated 30.09.2024, in W.P.No.13511 of 2024 and batch. Further, in order to put an end to this litigation, this Court is of the view that the promotion proceedings, dated 14.12.2024, are liable to be set aside and accordingly, the same are set aside. However, liberty is given to the respondent-railways to finalize the selections strictly in accordance with the observations made by this Court in W.P.No.13511 of 2024 and batch and also taking into account the APARs of three years prior to the issuance of notification, dated 26.10.2020, and if APARs are not available, then the respondent-railways can look into the Performance Report of the candidates and finalize the selections.

16. Since we have set aside the proceedings, dated 14.12.2024, with a direction to the respondent-railways to finalize the selections strictly in accordance with the observations made supra, it is needless to state that the respondents-applicants shall withdraw the subject O.A.No.2366 of 2024 pending before the Tribunal, in order to give quietus to this litigation. It is also needless to state that since the post of Junior Engineer/Permanent Way deals with the maintenance of railway tracks and it would come under the works of exigency, the respondent-railways are directed to finalize the selections as expeditiously as possible, preferably, within a period of two (2) weeks from today.

17. With the above observations/directions, both the Writ Petitions are disposed of. There shall be no order as to costs. Miscellaneous Applications, if any, pending

in these Writ Petitions shall stand closed.