

HIGH COURT OF ANDHRA PRADESH

* * * *

W.P.NO.18726 of 2026

DATE OF JUDGMENT PRONOUNCED: **15.07.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE NYAPATHY VIJAY,J

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

NYAPATHY VIJAY,J

***THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY**

+ W.P.No.18726 of 2026

% 15.07.2026

Between:

U.Kalpana, D/o. (Late) U. Padmanabhaiah, Age 46 Years, OCC GR-LL, Hostel Welfare Officer, Govt. Girls Hostel (S.W), Ulindakonda (VII), Kollur Mandal, Kurnool District, Andhra Pradesh.

...Petitioner

And

The State of Andhra Pradesh, rep. by its Principal Secretary, Social Welfare Department, Secretariat, Velagapudi, Guntur District.

...RESPONDENT(S)

Counsel for the Petitioner : Sri Santhapur Satyanarayana Rao

Counsel for the Respondent(S): G.P. for Services -I

< Gist :

> Head Note:

? Cases Referred:

¹ (1979) 2 SCC 150

² (2024) 7 SCC 103

³ 2009 (6) ALD 636 (DB)

⁴ (2007(5) SCC 425)

⁵ (1991) 4 SCC 109

⁶ (2009(16) SCC 329

⁷ (1998 (9) SCC 261)

⁸ (2011 (14) SCC 235)

⁹ 2022(5) SCC 634

¹⁰ 1995 Supp (2) SCC 83

¹¹ 1993 Supp (3) SCC 491

¹² 2011 (3) CTC 129

Date of reserved for orders :
 Date of pronouncement :
 Date of uploading :

APHC010350872026



**IN THE HIGH COURT OF ANDHRA PRADESH
 AT AMARAVATI [3460]
 (Special Original Jurisdiction)**

WEDNESDAY, THE 15th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 18726/2026

Between:

1.U.KALPANA, D/O. (LATE) U. PADMANABHAIAH, AGE 46 YEARS, OCC GR-LL, HOSTEL WELFARE OFFICER, GOVT. GIRIS HOSTEL (S.W), ULINDAKONDA (VII) KOLLUR MANDAL, KURNOOL DISTRICT, ANDHRA PRADESH STATE - 518218.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESHA, REP. BY ITS PRINCIPAL SECRETARY, SOCIAL WELFARE DEPARTMENT, SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT - 522237

2.THE COMMISSIONER AND DIRECTOR OF SOCIAL WELFARE, T. G. PLAZA, TADEPALLI, GUNTUR DISTRICT, ANDHRA PRADESH - 522501

3.THE DISTRICT COLLECTOR, KURNOOL, KURNOOL DISTRICT, ANDHRA PRADESH-518001

4.THE DEPUTY DIRECTOR OF SW DEPARTMENT, KURNOOL, KURNOOL DISTRICT, ANDHRA PRADESH-518001

...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

A) By declaring the entire action of the respondents, particularly action of 3rd Respondent in not considering the genuine claim of petitioner for promotion to the post of HWO Grade-1 (which is a non-selection post), even though the petitioner is fully eligible, qualified, within the zone of consideration, only on the untenable ground that, a minor penalty of censure is pending, even though said minor penalty of Censure will not come in the way for such promotion as per law laid down by Honble Division Bench of Composite High Court reported in 2001 (5) ALD, (131) DB, as well as subsequent judgment of Honble High Court of Telangana State, in W.A. No. 1158 of 2016 between Ch. Prakash Rao vs. Principal Chief Conservator of Forests, in the same subject matter while considering other juniors is as highly illegal, arbitrary, unjust, improper, contrary to the above judicial pronouncements in the same subject matter. the 3 Further hold that the petitioner is entitled for promotion to the post of Grade-1 HWO (which is a non-selection post) without reference to the minor penalty of censure imposed vide proceedings No. A1/123/2019 dated 13.08.2025, of the 3rd respondent on par with her immediate Junior, in view of law laid down by Honble Division Bench of Composite High Court reported in 2001 (5) ALD, (131) DB, as well as subsequent judgment of Honble High Court of Telangana State, in W.A. No. 1158 of 2016 between Ch. Prakash Rao vs. Principal Chief Conservator of Forests, in the same subject matter. C) Consequently to direct the respondents to consider the case of the petitioner for promotion to the post of Grade-1 HWO (which is a non-selection post) in the existing vacancies available without reference to minor penalty of Censure proceedings issued vide proceedings No.A1/123/2019 dated 13.08.2025, in view of the law laid down by the Honble Composite High Court in the case of A. Verna Reddy vs. Controller of Defence Accounts reported in 2001 (5) ALD (131) DB, and the law laid down by the Honble Division Bench of High Court of Telangana State, in W.A. No. 1158 of 2016 between Ch. Prakash Rao vs. Principal Chief Conservator of Forests, and pass

IA NO: 1 OF 2026

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 case of the petitioner for promotion to the post of Grade-1 HWO (which is a non-selection post) in the existing vacancies available without reference to minor penalty of Censure proceedings issued vide proceedings NO.AI/123/2019 dated 13.08.2025, in view of the law laid down by the Hon'ble Composite High Court in the case of A. Verna Reddy vs. Controller of Defence Accounts reported in 2001 (5) ALD (131) DB, and the law laid down by the Hon'ble Division Bench of High Court of Telangana State, in W.A. No. 1158 of 2016 between Ch. Prakash Rao vs. Principal Chief Conservator of Forests, and pass

Counsel for the Petitioner:

1.SANTHAPUR SATYANARAYANA RAO

Counsel for the Respondent(S):

1.GP FOR SERVICES II

The Court made the following:

Whether the order is :

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No

HON'BLE SRI JUSTICE NYAPATHY VIJAY**WRIT PETITION No.18726 of 2026****ORDER :**

This Writ Petition is filed questioning the action of Respondent No.3 in not considering the claim of Petitioner for promotion to the post of HWO Grade-I on account of 'punishment of minor censure' as illegal and arbitrary.

2. Petitioner was initially appointed as HWO Grade-II on 23.08.2006 and posted to Orvakal and she has been working at Orvakal from 14 years. While so, a charge memo vide Proceedings Rc.No.A1/123/2019-1, dated 20.08.2019 was issued. Petitioner submitted her explanation on 05.09.2019 denying all the charges. The Project Director, Mission for Elimination of Poverty in Municipal Areas, who was appointed as Enquiry Officer, after due enquiry, submitted a report dated 12.01.2022 holding that the charges as 'not proved'. Despite the report of the Enquiry Officer, vide impugned proceedings dated 13.08.2025 imposed a punishment of '*censure*'. Now Petitioner is due for promotion to the post of HWO Grade-I. A final seniority list of Grade-II HWOs is communicated by Respondent No.3 on 28.09.2023 and the Petitioner was placed at Sl.No.14. Petitioner made a representation dated 05.07.2026 to Respondent

No.4 to consider her candidature for promotion. Despite the same, one of her juniors Sri M.Vijay Babu at Sl.No.16 in the seniority list dated 28.09.2023 was considered for promotion and issued orders on 07.07.2026.

3. In the present writ petition, Petitioner claims for consideration of promotion on the premise that 'penalty of censure' cannot have a bearing on the promotion of the Petitioner. Judgments of the Full Bench of Madras High Court, which was followed by Coordinate Benches of this Court were referred to in support of the case.

4. Learned Assistant Government Pleader, Sri S.Raju, contended that the penalty of censure was imposed after taking of the allegations and as the order of censure was not under challenge, the promotion of the junior of the petitioner is in order. Learned Assistant Government Pleader further submitted that G.O.Ms.No.53, General Administration (Ser.C) Department, dated 04.02.1997 was issued clarifying that the punishment of censure shall debar a Government employee for promotion/appointment by transfer for one year to both selection and non-selection posts. It is therefore submitted that the action of the Respondents in deferring the promotion of the Petitioner is in consonance with the Rules.

5. The issues now fall for consideration are:

(a) Whether penalty of censure shall debar an individual Government employee for promotion for a period of one year ?

6. **Issue No.(a):** In the APCS CCA Rules, there is no specific consequence of penalty of censure imposed on Government employee. Taking note of this aspect, the State Government after due consideration, issued G.O.Ms.No.53 dated 04.02.1997. As per the said G.O., the punishment of censure was held to debar an employee for promotion for a period of one year, which reads as under:

ORDER:

According to sub-rule (i) of rule 9 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, "Censure" is declared as a minor penalty. Para 11 of the G.O. first read above provides that an individual, who is undergoing punishment, should not be recommended for promotion and where the period of punishment imposed is already over, each period of punishment imposed is already over, each case has to be evaluated by Departmental Promotion Committee on merits. In the Government Memo, second read above, instructions were issued to the effect that solitary instance of minor punishment such as censure, fine, withholding of increments or recovery from pay of the pecuniary loss caused to the State Government or Central Government undergone or being

undergone by a Government employee by itself does not automatically render a person unfit for promotion to a non-selection post.

2] The Government of India, Ministry of Home Affairs, in its instructions issued in O.M.No.39/21/56, Ests. (A), Dt.13-12-56 has clarified that an order of "Censure" is formal and public act intended to convey that the person concerned has been guilty of some blameworthy act or omission for which it has been found necessary to award him a formal punishment and nothing can amount to a "censure" unless it is intended to be such a formal punishment and imposed for 'good and sufficient reason' after following the prescribed procedure and that a record of the punishment so imposed is kept on the officer's confidential roll and the fact that he has been 'Censured' will have its bearing on the assessment of his merit or suitability for promotion to higher posts.

3] As the penalty of censure has a bearing on the assessment of the Government Servant about his merit or suitability for promotion to higher posts and as the currency of punishment based on previous record stands as an impediment for promotion, it is considered necessary to specify the time limit during which the said penalty of "Censure" is effective besides defining the penalty.

4] Hitherto, there are no specific orders in regard to definition of "Censure" and its implications. After careful consideration, the Government decided to issue the following orders in regard to definition of "Censure" and its implications in assessing the "merit" and suitability of the Government Servant for his promotion/appointment by transfer.

DEFINITION:

"Censure" is a formal and public act intended to convey that the person concerned has been guilty of some blameworthy act or omission for which it has been found necessary to award him a formal punishment, and nothing can amount to a "Censure" unless it is intended to be such a formal punishment and imposed for "good and sufficient reason" after following the prescribed procedure.

Effect:

Every censure awarded shall debar a Government servant for promotion/ appointment by transfer for one year to both selection and non-Selection posts.

5] All the Departments of Secretariat and Heads of Departments are requested to bring these orders to the notice of all concerned.

7. Though, the above extracted G.O. is an executive instruction, the power of the executive is co-extensive with the legislature as provided in Article 162 of the Constitution of India. Executive instructions designed to fill gaps in legislation or to supplement them can be considered to be statutory in nature. It would be apt to refer to the observations in ***Distt. Registrar v. M.B. Koyakutty***¹,:

"22. There can be no quarrel with the proposition that if the statutory rules framed by the Governor or any law enacted by the State Legislature under Article 309 is silent on any particular point, the Government can fill up that gap and supplement the rule by issuing administrative instructions not inconsistent with

¹ (1979) 2 SCC 150

the statutory provisions already framed or enacted. The Executive instructions in order to be valid must run subservient to the statutory provisions.”

8. Similar view was expressed in ***Kavita Kamboj v. High Court of Punjab & Haryana***², at paragraph 53 thereof.

“53. The appropriate authority cannot amend or supersede statutory rules by administrative actions. However, it is open to it to issue instructions to fill up the gaps and supplement the rules where they are silent on any particular point.19 Such instructions have a binding force provided they are subservient to the statutory provisions and have been issued to fill up the gaps between the statutory provisions.20”

9. It is pertinent to note here that a similar ***G.O.Ms.No.342 dated 04.08.1997***, was issued by the State Government to the effect that if employee is awarded the penalty of stoppage of increment with cumulative effect, the cases of such employees shall not be considered for promotion/appointment by transfer for twice the period for which the increments are stopped with cumulative effect, for both for selection and non-selection posts. The said G.O. was considered by a Division bench of this Court in ***State of A.P. and another v. K.Abhimanyudu***³ and it was held that the

² (2024) 7 SCC 103

³ 2009 (6) ALD 636 (DB)

G.O.Ms.No.342 has statutory value and that it is a policy decision of the State. Paragraph 17 thereof is extracted below;

*“17. ...The Government is entitled to conduct its business by issuing appropriate orders in the name of Governor, which shall be specified under the Rules. C.C.A. Rules have been specifically enacted in exercise of powers of the State under proviso to Article 309 of the Constitution of India. **As the Rules made under the A.P. Civil Services (Classification, Control and Appeal) Rules do not provide the effect of penalty, the Government issued G.O.Ms. No.342 under executive power. Therefore, the order of the Government, issued in the name of Governor of Andhra Pradesh, under Article 162 of the Constitution of India has an effect of law.** As the aforesaid G.O. issued by the Government in exercise of its executive power under Article 154/162 of the Constitution of India is having force of law, as the effect of penalty is not covered by any statutory Rules, both the memos, dated 4.11.1999 and 9.2.2009 are issued by the Secretary to the Government. The Government cannot take away the effect of its order by issuing Circular Memo. G.O. Ms. No.342 issued by the Government is in the nature of policy of the State for giving effect to the penalties. Therefore, any policy decision of the Government issued in the form of G.O., cannot be diluted by way of Circular Memos. Therefore, we are of the opinion that the Circular Memos have no statutory force and the Circular Memo, dated 4.11.1999, which was relied on by the respondent has no effect of G.O. Ms. No.342.”*

10. Secondly, if the contention of the learned senior counsel is to be accepted, “*censure*” imposed on an established misconduct of an employee literally has no consequence. Such an approach would make the penalty of “*censure*” a dead provision in the rules. The discipline among the employees is instilled in fear of consequence of any act of misconduct and it would be unfair to treat an employee

censured, on par with an employee with clean record for the purpose of promotion, it would be unfair. If a punishment has no consequence, it erodes deterrence and leads to the normalisation of wrongdoing.

11. Thirdly, in none of the Judgments of the Hon'ble Supreme Court censure was held not to be a bar for promotion. To start with, in ***Union of India v. A.N.Mohanan***⁴, a departmental action was initiated against the individual therein and his case for promotion was kept in sealed cover. After enquiry, penalty of Censure was imposed and then the individual sought for promotion by opening the sealed cover. The Central Administrative Tribunal directed the opening of sealed cover and gave effect to promotion from retrospective date as censure is not a bar for promotion. The Hon'ble Supreme Court taking note of the observations in paragraph 26 of ***K.V.Janakiraman v. Union of India***⁵, set-aside the said order of the Tribunal as the imposition of penalty was a blame worthy factor and sealed cover cannot be acted upon. The relevant paragraph is extracted below;

11. Awarding of censure, therefore, is a blameworthy factor. A bare reading of Para 3.1 as noted above makes

⁴ (2007(5) SCC 425)

⁵ (1991) 4 SCC 109

the position clear that where any penalty has been imposed the findings of the sealed cover are not to be acted upon and the case for promotion may be considered by the next DPC in the normal course.

12. A similar view was taken in ***Union of India v. Mihir Kumar Bandhopandhyay***⁶, ***State of M.P. v. I.A.Quereshi***⁷ and in ***State Bank of India v. CK Karunakaran Civil Appeal No.6821 of 2009 dated 30.09.2021.***

13. In ***State of Rajasthan v. Shankar Lal Parmar***⁸, the Hon'ble Supreme Court was considering an issue as to whether an employee would be entitled for the grant of "selection grade", automatically, after the completion of 9 years, 18 years and 27 years of service, even when he has earned a penalty of censure.

14. A circular similar to G.O.Ms.No.53 deferring the benefit of selection grade for a period of one year was under consideration in the said judgment. After examining the circulars, the Hon'ble Supreme court held that deferring the selection grade by one year on account of censure is correct and there cannot be automatic grant of selection grade despite awarding penalty of 'Censure'. It

⁶ (2009(16) SCC 329

⁷ (1998 (9) SCC 261)

⁸ (2011 (14) SCC 235)

was observed that distinction has to be made between employees imposed with a penalty of censure and those with clean records and both cannot be treated alike. The relevant paragraphs are extracted below;

“1. Leave granted. The solitary question that arises for our consideration in the instant and the connected appeals is whether an employee would be entitled for the grant of “selection grade”, automatically, at the first instance, after the completion of 9 years, at the second instance, after the completion of 18 years and at the third and last instance, after the completion of 27 years of service, even when he has earned censure in the past years of service.

2. In fact, on the strength of an order pronounced by a Division Bench on 12-12-2003 in Devi Singh v. State of Rajasthan¹, several matters came to be filed in the High Court of Judicature of Rajasthan both at the Principal Bench at Jodhpur and at the Bench at Jaipur claiming entitlement for the selection grade. Unfortunately, the learned Judges, either sitting in Single Bench hearing the writ petitions of the employees or in Division Bench, hearing the writ appeals of the State, without properly appreciating or advertent to the ratio decidendi of the case, in a stereotype manner, went on allowing the writ petitions filed by the employees and dismissing the appeals preferred by the State.

*20. However, we need to clarify that during the interregnum period between the first office order, issued on 25-1-1992 and the subsequent clarificatory Office Order/Letter dated 24-7-1995, some of the employees were granted the benefit of selection grade. The appellant State would not be entitled to claim refund from such employees who have already been granted benefit in this period. The subsequent office order/letter further makes it clear that **all those employees who have earned censure in service shall also be entitled for the selection grade but the grant of selection grade to them would be deferred by one year. This appears to be an absolutely reasonable and perfect classification as***

otherwise every employee who has a clean image and another employee, who has earned censure would be treated on a par. This is not permissible in the service jurisprudence and is also violative of Article 14 of the Constitution.

21. It is a settled principle of law that “like should be treated alike”. This is the mandate and command of Article 14 of the Constitution, which we are required to follow. In any case, those who have earned censure cannot be treated on a par with those who have had a clean service record. As mentioned hereinabove, an employee with blemished, polluted, tainted, unclean service record cannot be equated with other employee who has enjoyed clean, unblemished, unpolluted, untainted and impeccable service record. Such differentiation would not be violative of Article 14 while dealing with the principles of equality.

15. The above judgment referred to **Rajasthan SRTC v. Sadhu Singh⁹**. Apart from the above, the non-recommendation of an individual for promotion on account of penalty of censure was held to be valid in **Chabungham Ibohal Singh v. Union of India¹⁰**. A similar view was also taken in the **State of T.N. v. P. Bose¹¹**.

16. The genesis for the orders passed by coordinate benches treating Censure as not a bar for promotion, is an interim order in W.A.No.1158 of 2016 dated 21.11.2016 relying on the full bench of Madras High Court. The said W.A was subsequently dismissed as infructuous on 13.04.2022 as the individual was promoted. The

⁹ 2022(5) SCC 634

¹⁰ 1995 Supp (2) SCC 83

¹¹ 1993 Supp (3) SCC 491

Judgment of the Division Bench in ***K.Abhimanyudu***^s case (3) supra was also not brought to the notice, when interim order was made on 21.11.2016 in W.A.No.1158 of 2016. It is to be noted that there never was an authoritative pronouncement by this Court on this aspect. Unfortunately, the interim order held the field, even after the W.A. was dismissed as infructuous. A serious introspection is required by all the stakeholders representing the State.

17. Coming to the Full Bench decision of Madras High Court in the ***Deputy Inspector General of Police v. V.Rani***¹², the issue was a letter dated 07.10.2005 issued by the Secretary to Government giving consolidated instructions for promotions. In the said letter, it was stated that a person imposed with a punishment of censure cannot be considered for promotion and in regards other punishments, it was specified that such individuals could not be considered for promotion for five years. Firstly, the letters were issued with reference to G.O.Ms.No.368 dated 18.10.1993, but the said G.O. did not prescribe the bar of one year/five years as mentioned in the letter issued by the Secretary to Government. It was in that context, it was opined that the “censure” cannot be a ground for deferring promotion for one year based on the letter. For better understanding paragraph 24 thereof is extracted below.

¹² 2011 (3) CTC 129

*“24....The embargo imposed in respect of further period as stated above can never be said to be authorized under the statutory rules. **The said Government letter can be treated as a circular issued by the Secretary to Government to all departments. This letter, as correctly submitted by the learned senior counsel Mr.G.Rajagopal, cannot supersede the statutory rules.**”*

18. As mentioned above, the scenario in this State is different and the bar is imposed vide G.O.Ms.No.53 dated 04.02.1997 issued in the name of Governor and signed by the Chief Secretary. This was held to be law as mentioned supra. Apart from that, most of the Judgments cited supra, did not fall for consideration before the Full Bench of Madras High Court as the focus was only on the validity of the Government letter.

19. In view of the above, the Issue No.(a) is answered holding that the penalty of “Censure” is a bar for promotion for the period specified in G.O.Ms.No.53 dated 04.02.1997.

20. In the light of the above and as the Penalty of ‘censure’ was not challenged, the writ petition is disposed of with the following direction:

(i) The Respondents shall consider the case of the Petitioner for promotion to the post of HWO Grade-I after expiry of the one year period from the date imposition of penalty of censure as prescribed

in G.O.Ms.No.53 dated 04.02.1997 taking into account her seniority and in accordance with the Rules.

(ii) No order as to costs.

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

NYAPATHY VIJAY, J

Date:15.07.2026

KLP

Note: L.R.copy be marked.