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**Date:** 23/10/2025

A.S. Chary and Others Vs The Vice Chairman and Managing Director,
APSRTC, Bus Bhavan, Mushirabad, Hyderabad, The Executive Director (H
and K), APSRTC, Bus Bhavan, Mushirabad, Hyderabad, The Chief
Manager (HRD), APSRTC, Bus Bhavan, Mushirabad, Hyderabad and
Others

Writ Petition No"s. 30784, 30785, 30790, 30803, 30811, 31053, 31064, 31130, 31440, 31444, 31554, 31676, 31794, 31797, 31911, 33392, 32412, 32447 and 32837 of 2011

Court: Andhra Pradesh High Court

Date of Decision: Dec. 23, 2011

# **Acts Referred:**

Andhra Pradesh State Road Transport Corporation Employees (Recruitment) Regulations, 1966 â€" Regulation 3, 3(2), 3(4), 34, 8#Constitution of India, 1950 â€" Article 226

**Citation:** (2012) 1 ALT 762

Hon'ble Judges: G. Chandraiah, J

Bench: Single Bench

Advocate: P. Venkateswar Rao, Writ Petition Nos. 30784, 30785, 30790 of 2011, Sri. R S R S Sarma, Writ Petition No. 30803 of 2011, Sri. A. Jagan, Writ Petition No. 30811 of 2011, Sri. V. Narasimha Goud, Writ Petition No. 31053 of 2011, Sri. A.K. Jayaprakash Rao, Writ Petition No. 31064, 31130 of 2011, Sri. A.G. Satyanarayana Rao, Writ Petition No. 31440 of 2011, Sri. P. Venkateswar Rao, Writ Petition No. 31444 of 2011, Sri. G. Ravi Mohan, Writ Petition No. 31554 of 2011, Sri. A.G. Satyanarayana Rao, Writ Petition No. 31676, 31794 of 2011, Sri. S. Gopal Rao, Writ Petition No. 31797 of 2011, Sri. V. Narasimha Goud, Writ Petition No. 31911 of 2011, Sri. G. Vidyasagar, Writ Petition No. 32392 of 2011, Sri. A.G. Satyanarayana Rao, Writ Petition No. 32412 of 2011, Sri. G. Vidyasagar, Writ Petition No. 32447 of 2011, Sri. Suresh Kumar Reddy Kalava, Writ Petition No. 32837 of 2011, for the Appellant; C. Sunil Kumar Reddy, Writ Petition No. 30784 30785 30790 of 2011, Sri. K. Madhava Reddy (SC for APSRTC), Writ Petition No. 30803, 30811 of 2011, Sri. C. Sunil Kumar Reddy (SC for APSRTC), Writ Petition No. 31053 of 2011, Smt. W.V.S. Rajeswari (SC for APSRTC), Writ Petition No. 31064, 31130, 31440 of 2011, Sri. C. Sunil Kumar Reddy (SC for APSRTC), Writ Petition No. 31444 of 2011, Kallakuri Srinivasarao, Writ Petition No. 31554 of 2011, Sri. K. Satyanarayana Murthy (SC for APSRTC), Writ Petition No. 31676 of 2011, Kallakuri Srinivasarao, Writ Petition No. 31794 of 2011, Smt. W.V.S. Rajeswari (SC for APSRTC), Writ Petition No. 31797 of 2011, Sri. C.Sunil

Kumar Reddy (SC for APSRTC), Writ Petition No. 31911 of 2011, Arun Kumar Lathker (SC for APSRTC), Writ Petition No. 32392 of 2011, Sri. K. Satyanarayana Murthy (SC for APSRTC), Writ Petition No. 32412, 32447 of 2011, Smt. W.V.S. Rajeswari (SC for APSRTC), Writ Petition No. 32837 of 2011, for the Respondent

Final Decision: Dismissed

# **Judgement**

#### @JUDGMENTTAG-ORDER

Hon"ble Sri. Justice G. Chandraiah

- 1. Heard the respective counsel for the petitioners and Standing Counsels for the respondent Corporation.
- 2. Since the issue involved in all the writ petitions is one and the same, they are being disposed of by this common order.
- 3. The petitioners in all the writ petitions are working as Conductors in different zones in the State of Andhra Pradesh in the Andhra Pradesh State

Road Transport Corporation (for short "the Corporation") on regular basis and put in substantial length of service. The Corporation conducted

qualifying departmental tests for promoting the employees in the cadre of Routine Clerks/Conductor/Telephone Operators/Punch

Operators/Comptists, to the posts of Junior Assistants in the categories of Finance, Personal and Material and the petitioners qualified in the

departmental test and their names were included in the final seniority lists of eligible candidates for being promoted to the above said posts. Some

of the candidates were given promotions and some are yet to get promotions. The Corporation is also taking the services of some of the

petitioners, who are working as conductors, as Junior Assistants in different categories and thus some of the petitioners are officiating in the

promotional posts. The petitioners are waiting for their turn to get promotions. While so, the Corporation issued notification No.

R2/684(22)/2011-HRD dated 8.11.2011, to fill up the vacancies of Junior Assistants in above said categories, by direct recruitment. The

Corporation also issued ancillary notification No. R2/684(22)/2011 dated 10.11.2011 for departmental eligible candidates for applying to the said

vacancies, by giving age relaxation, which are notified in the notification dated 8.11.2011, meant for direct recruitment. By these notifications, the

Corporation is taking steps for filling up of vacancies of 544 posts, which include Junior Assistant (Finance) -266 posts, Junior Assistant

(Personnel) -196 posts and Junior Assistant (Material) -82 posits.

4. Challenging the notification dated 8.11.2011, W.P.Nos.31503, 31130, 31064, 31554, 31797, 31911, 32392, 32447, 30803 and 32837 of

2011, have been filed and challenging the ancillary notification dated 10.11.2011, W.P.Nos. 30785, 30790, 31444, 30811, 31440, 31676.

31794, 32412 and 30784 of 2011 have been filed.

5. Now the grievance of the petitioners in these writ petitions is that without giving promotions to them who have qualified in the departmental test

for promotion and who are awaiting for their promotions as per the seniority lists, the Corporation is not justified in going for direct recruitment,

without making proper analysis of vacancies earmarked by promotional quota and hence the same is in violation of the Andhra Pradesh State

Road Transport Corporation (Employees") Recruitment Regulations, 1966 (for short "Recruitment Regulations"). Therefore, they sought for

quashing of the notifications and consequently direct the respondents to promote the petitioners by exhausting the seniority lists.

6. The respondent - Corporation filed counter affidavits in W.P.Nos.30784, 30785, 30803 and 30790 of 2011 and denied the claim of the

petitioners. The tenor of the counter affidavits is that the Recruitment Regulations pertaining to filling up of vacancies of Junior Assistant (P), Junior

Assistant (F) and Junior Assistant (M), provide for filling up of certain posts from promotional candidates, from feeder category and the remaining

vacancies by direct recruitment. The quota reserved for promotees are being filled up from time to time and the impugned notification is meant for

only direct recruitment. Therefore, it is not proper on the part of the petitioners to question the impugned notification, as the same is nothing to do

with the promotional vacancies. The Corporation also issued the subsequent internal notification dated 10.11.2011, ancillary to the main

notification dated 8.11.2011, enabling the eligible departmental employees to apply for direct recruitment, by giving suitable relaxation in respect of

age. Therefore, the eligible employees also can apply for the said posts instead of waiting for the promotions as per their seniority list. With these

averments, inter alia, the writ petitions were sought to be dismissed.

7. The petitioners filed reply affidavit in W.P.No.30803 of 2011 to the counter affidavit and the respondent - Corporation again filed additional

counter affidavits in W.P.Nos.30784 and 30790 along with material papers, and the respective contentions in these affidavits, will be considered

during the course of judgment.

8. The Learned Counsel appearing for the petitioners contended that as per the circulars of the Corporation, the petitioners, who have put in

substantial length of satisfactory service, appeared for the departmental tests and qualified and accordingly inter se seniority lists were prepared

and some of the employees in the feeder category, were given promotions and some are officiating in the promotional posts. As per Regulation 3,

the appointment to the posts in the Corporation can be made by direct recruitment and by promotion and the Annexure-A pertaining to this

regulation, provides for vacancies meant for promotions and for direct recruitment and also the necessary qualifications. Under Regulation 3(4),

resort to direct recruitment may be made, only when the suitable and qualified persons are not available for promotion. Under Regulation 8, a

person who is already in the service of the Corporation may also be considered for appointment to a post to be filled by direct recruitment. In the

present case, the Corporation has not properly analyzed the vacancies and without earmarking the vacancies for promotional candidates, as per

the Regulations, issued the impugned notification, only for direct recruitment, when the in-service eligible candidates, who have qualified in the

departmental test, are existing in the seniority lists. It is stated that the respondent - Corporation has to earmark the vacancies notified in the

present notification for promotional candidates and direct recruitment in the existing vacancies and it cannot make reference to the total cadre

strength and deny opportunity to the departmental candidates on the ground that they are occupying more number of vacancies, In support of this

contention, the Learned Counsel relied on the judgment of the Apex Court reported in Maya Mathew Vs. State of Kerala and Others, . It is

further sought to be contended that in the present case, for the many years, due to the ban, there was no direct recruitment and no records are

produced by the Corporation showing the number of vacancies to be filled by direct recruitment and by promotion and thus there was break down

of rota-quota rule. It is stated that the recruitment year is only calendar year and as such back log in direct recruitment quota from 1993 to 2010

cannot be taken into account, as it stands broken down and if the present recruitment takes place, the direct candidates would become seniors to

the petitioners and therefore, the Corporation has to consider the case of the departmental candidates, otherwise their seniority would be

jeopardized. In support of these contentions, the Learned Counsel relied on the judgment reported in B.S. Mathur v. Union of India 2008 (8) SCJ

761. The contention of the Learned Counsels is that without exhausting the selected panel, the Corporation is not justified in issuing notification for

direct recruitment. It is stated that in similar circumstances, when the Corporation resorted to direct recruitment without exhausting the selected

panel, this Court in W.P.No.17152/1995 dated 23.4.1996, while setting aside the notification therein, directed the respondents to issue

appointment orders to the candidates in the select list prepared by the Departmental Selection Committee dated 27.6.1991 and after exhausting

the said candidates, gave liberty to the Corporation to go for direct recruitment. The said judgment of the learned single Judge was confirmed in the

writ appeal in W.A.No.918 of 1996 dated 7.8.1996. With these submissions, impugned notification is sought to be set aside.

9. On the other hand, the respective earned standing counsels appearing for the respondent - Corporation, while; reiterating the averments made in

the counter affidavits, further submitted that the Recruitment Regulation 3 provide for direct recruitment and by promotion. The number of

vacancies to be filled by way of promotion and by direct recruit, is mentioned in Annexure A to Regulation 3 and as per the same, the recruitment

notification for direct recruitment is given. It is submitted that Regulation 34 stipulates that the Corporation shall ensure direct recruitment and

promotion in specified ratio and review shall be made on 1st January of every second year and the shortfall, if any, either in direct recruitment or

promotion, shall be identified and in accordance thereto, direct recruitment or promotion shall be made to ensure the ratio between the direct

recruitment and promotions. Therefore, the Corporation reviewed the vacancy position of Junior Assistant (Per, Fin, Mat, Per) for the years 2006-

07, 2007-08, 2008-09, 2009-10, 2010-11 and arrived at the figures of 544 vacancies and a proposal was submitted to the Government for filling

up of the said vacancies by direct recruitment for the block period 2006-07 to 2009-10 and the Government through G.O.Ms.No.90 dated

11.6.2010, has approved for filling up of direct vacancies. Therefore, the contention of the counsel for the petitioners that the notification was

issued without analyzing the vacancies, is without any basis. The Corporation conducted departmental qualifying test for eligible Routine

Clerks/Telephone Operator/Punch Operators/Comptists/Conductor, for preparing an inter se - seniority list, for giving promotions and from 2005

till date, 4335 candidates were qualified in seven zones and out of them 1120 employees were given promotions, but as per the vacancies

calculated under promotion quota, only 546 candidates up to the current year 2010-11, were to be given promotion. It is clear that Corporation

has given promotions to 574 employees, in excess of their quota, and this was due to the ban imposed by the Government. Therefore, the

Corporation contemplated to revert 574 candidates, but based on the representations of the recognized unions, it is temporarily decided to

continue them in promoted posts. It is stated that the petitioners who have qualified in the departmental test and whose names were included in the

inter se seniority list, will be given promotion as and when their turn comes up for consideration. It is also stated that the Corporation has issued

notification dated 10.11.2011 to enable the service candidates to apply for direct recruitment by giving age relaxation. Therefore, the petitioners

cannot have grievance. With these averments, the writ petitions were sought to be dismissed.

10. In view of the above rival contentions, the point that arises for my consideration is whether there are any grounds to interfere with the impugned

notifications dated 8.11.2011 and 10.11.2011?

- 11. In order to consider the above issue, it is necessary to first note the relevant provisions under the Recruitment Regulations, as under:
- 3. Appointment and Qualifications:
- (1) Appointment to the posts in the Corporation shall be made -
- (a) by direct recruitment; or
- (b) by promotion or
- (c) by transfer or deputation of an Official already in the service of a Department of the Central or State Government or a State Transport

Undertaking.

(2) The method of recruitment to each post specified in column 2 of Annexure -A shall be shown in the corresponding entry in column (3) thereof

and the qualifications prescribed for each such post shall be as shown in the corresponding entry in column (4).

(3) Notwithstanding anything in clause (2), the Corporation may at any time, appoint suitable Officer of the State or Central Government or any

State Transport Undertaking to any of the posts specified in Annexure-A on "Foreign Service" terms.

(4) Where suitable departmental candidates are not available for promotion to any of the posts specified in Annexure-A where the posts are to be

filled by promotion only, such posts may be filled by direct recruitment by selection provided that recruitment to all the higher posts from the lower

posts shall be made by way of promotion and resort to direct recruitment only when suitable and qualified persons are not available for promotion.

ANNEXURE- A

(Class - III Services)

S.no. Category of post Method of recruitment Qualifications

5 Junior Assistant (F) In a unit of 30 1) FOR PROMOTION:

(Section - F) vacancies -

(a) The Routine Clerk must

(Accounts Department.)(a) the 1st, 11th, 21st have rendered not less than

and 27th vacancies be 5 years of service as such;

filled by promotion by

selection from the ranks(b) the Telephone Operator

of Routine Clerk; / Punch Operator /

Comptist / Conductor must

(b) the 4th, 6th, 9th, have rendered not less than

14th, 23rd & 24th 7 years of service as such;

vacancies be filled by

promotion from the  $\tilde{A}^-\hat{A}_{\dot{c}}\hat{A}_{\dot{c}}$  the Routine Clerk /

rank of Telephone Operator /

Conductor. (c) The. 8thPunch Operator / Comptist

and 17th vacancies be / Conductor must have

filled by promotion by passed Departmental

selection from the ranksqualifying test.

of Telephone

Operator/Comptist. (d) Note:- Interse seniority

The remaining 18 among Routine clerk /

vacancies be filled by Telephone Operator /

direct recruitment by Punch Operator / Comptist

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selection. / Conductor should be fixed
among the qualified
Note: Within a block candidates. For this
period of one year, if purpose the date to be
suitable candidates fromreckoned should be the
(a), (b) or (c) are not date of completing
available to fill up the qualifying service as
vacancies reserved for prescribed for the cadre.
them, the vacancies be
filled by the candidates 2) FOR DIRECT
from (d). RECRUITMENT: The
candidate -
(a) must be a Graduate in
commerce from any
University recognized by
the University Grants
Commission; and
(b) must not be above 30
years of age as on 1st July
of the year in which the
recruitment is made.
Junior Assistant In a Unit of 60 1) FOR PROMOTION:
(Personnel) Personnel vacancies
Department. (a) The Routine Clerk must
(a) The 1st, 11th, 21st, have rendered not less than
27th, 31st, 41st, 51st 5 years of service as such;
and 57th vacancies be
filled by promotion by (b) the Telephone Operator
selection from the ranks/ Punch Operator /
of Routine clerk; Comptist / Conductor must
have rendered not less than
(b) The 4th, 6th, 9th, 7 years of service as such;
14th, 23rd, 24th, 34th,
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36th, 39th, 44th 53rd, Ã-¿Â½ the Routine Clerk /

54th vacancies be filled Telephone Operator /

by promotion from the Punch Operator / Comptist ranks of Conductor; / Conductor must have passed Departmental

(c) The 8th 17th, 38th qualifying test.

& 47th vacancies be

filled in by promotion byNote:- Interse seniority selection from the ranksamong Telephone Operator of Telephone Operator / Punch Operator /

"/ Punch Operator / Comptist / should be fixed

Comptist. among the qualified

candidates. For this

(d) 5% of the 60 purpose the date to be vacancies in a Unit, the reckoned should be the 2nd 32nd and 42nd date of completing vacancies to be filled byqualifying service as

selection from among prescribed for the cadre.

Conductors who are in

possession of 2) FOR DIRECT

qualifications prescribedRECRUITMENT: The

for direct recruitment candidate -

and put

(a) must be a Graduate

in 5 years of service in in commerce from any

APSRTC as such. University recognized by the

**University Grants** 

(e) The remaining Commission;

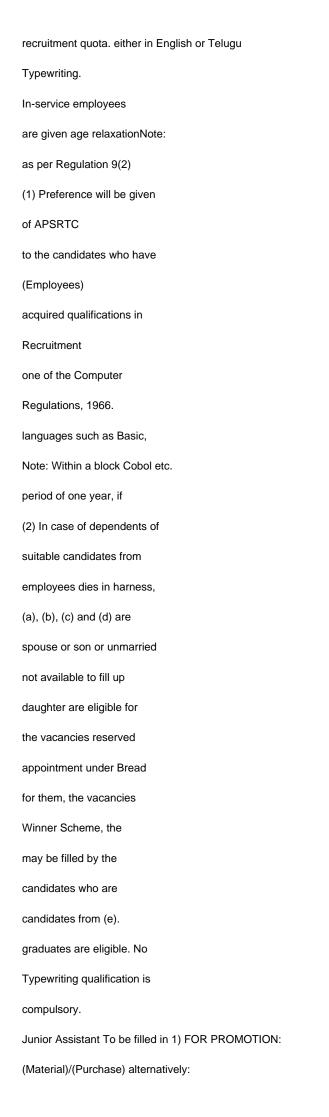
the prescribed recruitment is made.

vacancies be filled by

direct recruitment by (b) must not be above 30 selection. Departmentalyears of age as on 1st July candidates. possessing of the year in which the

qualification may also

be considered for (c) Must have passed the selection along with Lower Grade Government outsiders against direct Technical Examination



i) the Mechanic/Aartisan Section F (Stores and (a) by promotion by Purchase.) selection from the rank (a) must hold a Diploma in of Mechanic/artisan and Automobile/Mechanical Mukaddams; engineering DAE/DME or be in possession of ITI; Note: The 10th vacancy be appropriated for (b) the Mechanic /artisan in promotion to possession of ITI must have Mukaddams. rendered not less than 8 years of total service and (b) by direct recruitmentMechanic/artisan in by selection. possession of DME/DAE must have rendered not less Note: If no suitable than 3 years of total service candidate is available in the Corporation; from (a) above, the vacancy may be filled (c) must pass requisite by the candidates from qualifying test; (b) above. Note: Seniority among Mechanic/Artisan should be fixed among the qualified candidates. For this purpose, the date to be reckoned should be the date of qualifying service. ii) The Mukaddam (a) must have passed SSC or its equivalent examination and must have rendered 10 years service as Mukaddam (b) must pass the requisite

qualifying test.

2) FOR DIRECT
RECRUITMENT: The
candidate -
(a) must possess a Diploma
in Automobile or
Mechanical Engineering or
be a Graduate from a
recognized University;
And
(b) must pass the requisite
qualifying test; and
Ã⁻¿½ must not be above 30
years of age as on 1st July
of the year in which the
recruitment is made.
8. General Provisions Regarding Appointment:
(1)
(2) Subject to the provisions of Regulation -9 and of Annexure -A, any person who is already in the service of the Corporation may be considered
for appointment to a post filled by direct recruitment.
(3)
(4)
9. Relaxation of Age Limit:
(1) Notwithstanding anything in these Regulations, a competent authority may, in exceptional circumstances for reasons to be recorded in writing,
make an order exempting any person or class of persons from the age limit prescribed therein.
(2) Where a person, who is already in the service of the Corporation and has been appointed regularly, is permitted to apply for a post filled by
direct recruitment, he shall be allowed to deduct from his age the period of his service up to a maximum of 10 (ten) years for the purpose of
maximum age limit.
Provided that, this age concession shall not be allowed, where the maximum age limit prescribed for the post is 40 years or above and Provided
further that the employees, belonging to Scheduled Caste, Scheduled Tribe and Backward class communities, who are already in

Corporation and have been appointee regularly and are permitted to apply for the post to be filled by direct recruitment shall be

the service of the

allowed to deduct

their entire service from the age for the purpose of maximum age prescribed for the post, subject to the condition that after allowing such

concession the age of the employee should not exceed 45 (forty five) years.

(3) Subject to the age concession allowed in clause (2) above, all Departmental candidates are eligible for appointment to any of the post, to be

filled by direct recruitment, as specified in Annexure - A provided they possess the qualification prescribed for the post.

(4)...

(5)..

- 12. Reservation of appointments:
- 1) Direct Recruitment posts in all classes of services both technical and nontechnical shall be filled up as per the reservations given hereunder:
- 34. In order to ensure direct recruitment and promotion in specified ratios as per APSRTC Empoyees" Recruitment Regulations review shall be

made on 1st January of every second year. Shortfall, if any, either in direct recruitment or promotion shall be identified. In accordance with shortfall

identified either direct recruitment or promotion shall be planned to ensure the ratio between the direct recruitment and promotion. In other words

if direct recruitee has retired, resigned or falls vacant for other reasons, it will go to direct recruitee and vice-verse. Seniority will be reckoned for

either of them as per Regulation 3 of Service Regulations.

12. A reading of the above provisions relating to appointment, it is clear that the Corporation, has the power to make appointment to the posts by

direct recruitment or by promotion and as per the method of recruitment specified in Annexure-A, the promotional points and direct recruitment

points are specifically prescribed.

13. Further, the qualifications prescribed for direct recruitment is graduation for Junior Assistant (Finance) and Junior Assistant (Personnel) and for

Junior Assistant (Personnel), apart from graduation, the candidate shall possess Lower Grade Government certificate either in English or Telugu

typewriting and preference and relaxation is also provided in the column no.4. In respect of Junior Assistant (Material/Purchase), the candidate for

direct recruitment, shall possess Diploma or Graduation in Automobile Engineering and also shall pass in the requisite qualifying test. Whereas, in

respect of departmental candidates, mainly qualifying service is necessary and passing of departmental test is prescribed for certain categories of

feeder posts and in respect of Junior Assistant (Material/Purchase), possession of Diploma or ITI in the relevant trade is prescribed, for

promotion. In other words, under Annexure - A, it could broadly be seen that for in-service candidates in the feeder category for promoting to the

next higher posts of Junior Assistants, in the respective departments, mainly qualifying length of service and passing of departmental test are

necessary and, whereas, for direct recruitees, certain necessary qualifications and passing of the qualifying test for recruitment, is prescribed under

the Recruitment Regulations. Under Regulation 34, candidates from each category, has to occupy their respective slots in the roster points in the

vacancies, which are to be counted unit wise. The other aspect that is conspicuously noted is that specific age limit is prescribed for direct

recruitees and no such limit is prescribed for in-service candidates and qualifying service and passing in the departmental test is basically provided.

Therefore, in-service candidates and direct recruitees, for considering for either promotions or appointment, emerge from different sources of

selection and each cannot have any claim over the vacancies meant for other category.

14. It is made clear in the Annexure -A at ""Note"" underneath at each category of posts at column 3, that within a block period of one year, if

suitable promotional candidates are not available for filling up the vacancies reserved for them, such vacancies can be filled by the candidates from

direct recruitment by selection. However, under Regulations 8(2) and 9(3), an in-service candidate can also be considered by the Corporation for

appointment to a post to be filled by direct recruitment, provided he possesses the requisite qualification prescribed for the post. The Corporation

is also empowered under Regulation 9 (2) to extend age relaxation to the in-service candidates for applying for a post to be filled by direct

recruitment. Further under Regulation 34, ratio between the direct recruitment and promotions is required to be maintained and that if a direct

recruitee retires, resigns or the post meant for direct recruitee, falls vacant for other reasons, it will go to direct recruitee and similarly, if a post

meant for promotional category, falls vacant, it shall go to promotional candidate and seniority shall be reckoned for direct recruitees and

promotional candidates as per Regulation 3 of Service Regulations.

15. Sub Clause (4) of Regulation 3 of Recruitment Regulations also provides that where the posts specified in Annexure-A are to be filled by

promotion only, they shall be filled by suitable departmental candidates and if no such suitable candidates are available for promotion, such posts

can be filled by direct recruitment. Under this provision, a proviso is made to the effect that recruitment to all the higher posts from the lower posts

shall be made by way of promotion and resort to direct recruitment can be made only when suitable and qualified persons are not available for

promotion. The contention of one of the counsels for the petitioners based on Regulation 3(4) is that the Corporation can go for direct recruitment

only when suitable departmental candidates are not available for promotion and since the petitioners have already qualified in the departmental

tests, without giving promotions, Corporation cannot go to direct recruitment.

16. The above contention is far from imagination and merits for outright rejection for the reason that Regulation 3(4) deals with promotions and

Regulation 3 (2) clearly stipulates the method of recruitment under Annexure-A, in which roster points for direct recruitees and promotees are

clearly earmarked. The proviso under clause (4) of Regulation 3 also clearly states that recruitment to all higher posts from lower posts shall be

made by way of promotion. The of the word ""recruitment in the proviso, cannot be read in isolation and the said word at any stretch of imagination

be understood as ""direct recruitment"", since recruitment cannot be made from lower post to higher post and it will only be way of promotion and in

the said proviso, it is clearly stated that resort to direct recruitment can be made only when suitable and qualified persons i.e., in-service

candidates, are not available for promotion. This analogy is further made clear under ""Note" at column no.3 of Annexure -A.

17. If the contention of the counsel for the petitioner that direct recruitment cannot be resorted to without giving promotions, is to be accepted,

then Regulation 3(2) and the Annexure-A, which prescribes the promotional and direct recruitment points, would be rendered otiose and proviso

under sub clause (4) of Regulation 4 would run counter to method of recruitment under sub clause (2) of Regulation 3 and the maintenance of ratio

by the Corporation between the direct recruitees and the promotees, as envisaged under Regulation 34, in terms of Annexure-A, would be an

impossibility. Therefore, the contention of the counsel for the petitioners that impugned notifications is contrary to Regulation 3(4), cannot be

accepted.

18. A close perusal of the Recruitment Regulations, further makes it clear that the Corporation apart from providing promotional avenues to the in-

service candidates, has also made sufficient safeguards for protecting the interests, by providing them opportunity to apply for direct recruitment by

giving age relaxation, provided they possesses the requisite qualifications prescribed for the post. At the same time, the Corporation under

Regulation 34 was required to maintain the ratio between the direct recruitees and the promotees and the roster points meant for the respective

categories, have to be filled by the candidates of the same category in the event of their posts falling vacant and seniority shall be counted as per

Regulation 3 of Service Regulations.

19. In the present case, the Corporation has issued the impugned notification for direct recruitment for appointment to the post of Junior Assistants

in the categories of Finance, Personnel and Material. The contention of the petitioners is that they qualified in the departmental test and are in the

lists of candidates qualified for promotion and unless those lists are exhausted, the Corporation without earmarking the vacancies for promotional

candidates, cannot go for direct recruitment. This contention, in view of the above discussion, cannot stand to scrutiny for the reason that the

Annexure -A referred to in Regulation 3 has specified vacancies to be filled by promotional candidates and by direct recruitment. Therefore, when

the Recruitment Regulations, provide for appointment by way of direct recruitment to the vacancies earmarked for them, the promotional

candidates cannot insist that their cases shall be considered first and then go for direct recruitment.

20. In the additional counter affidavit, which has not been disputed by way of filing any additional reply affidavits, the vacancy position earmarked

for direct recruitment and for promotion, year wise, is shown in a tabular form. The same is extracted as under for better appreciation:

SL CATEGORY2006-07 2007 -08 2008-09 2009-10 2010 -11

NO. PR DR PR DR PR DR PR DR

- 1. J.A. (Per) 11 14 31 43 48 72 50 67 59 84
- 2. J.A. (Fin) 39 59 41 63 47 69 49 75 50 76
- 3. J.A. (Mat) 13 16 14 08 18 19 17 19 27 23
- 4. J.A.(Pur) 11 10 08 04 03 02 03 04 07 06

Summary

SL. NO. CATEGORYTOTAL

PR DR

- 1. J.A. (per) 199 280
- 2. J.A. (Fin) 226 342
- 3. J.A. (Mat) 89 85
- 4. J.A. (Pur) 32 26

Total 546 733

21. In the additional counter affidavit, it is categorically stated that for filling up of 544 vacancies of direct recruitment, vacancies for the block

periods from 2006 to 2010 were taken and the vacancies arising for 2010-11 were left and that out of 4335 qualified departmental candidates in

seven zones, 1120 candidates were promoted to the posts of Junior Assistants in the categories of Personnel, Finance, Material etc. and because

of the ban imposed by the Government from 2006 to 2010, no direct recruitments could take place and only departmental candidates were given

promotions to an extent of 1120 and as on today 574 promotees were in excess, occupying the quota meant for direct recruitment.

22. It is to be noticed that as per Regulation 34, the Corporation is required to ensure that the ratio between the direct recruitees and the

promotees, and if a direct recruitee retires, resigns or if the post falls vacant for other reasons, it will have to be filled by direct recruitee and vice-

versa. In the present case, as already noted above, as per the case of the Corporation, 574 promotees, are occupying the posts meant for direct

recruitment and, therefore, this is contrary to Regulation 34. In the present case, as stated in the counter affidavits, the Government has imposed

ban on direct recruitment from 2006 to 2010 and, therefore, the Corporation could not take up direct recruitment. Therefore, in terms of

Regulations 34, those posts, which remained vacant due to ban on direct recruitment, have to be invariably filled by direct recruitment. In view of

these facts and circumstances, the contention of the petitioners that without earmarking the vacancies for promotees and without exhausting the list

of qualified candidates, going for direct recruitment is bad, is without any basis and merits for rejection. Similarly, in view of the statistics shown in

the additional counter - affidavits, with regard to promotional and direct recruitment vacancies, and also in view of the fact that the Government

imposed ban from 2006 to 2010, -and in view of Regulation 34, the contention of the counsel for the petitioners that there is break down of rota-

quota rule and that the seniority of in-service candidates would be affected, cannot be accepted and the judgment of the Apex Court relied on in

this behalf (cited 2 supra), cannot be made applicable to the facts of the case on hand.

23. The Learned Counsel for the petitioners relied on the judgment reported in Maya Mathew v. State of Kerala (1 supra), to contend that ratio

for direct recruitment and for promotion has to be applied with reference to vacancies notified and not with reference to cadre strength. The facts

of the said case disclose that in the total number of vacancies meant for direct recruitment and by way of transfer, the direct recruitees were

occupying the posts meant for transfer candidates and a special provision was made to the effect that when in a recruitment, transfer quota posts

have to be filled by direct recruitment, due to non-availability of candidates from transfer categories, the backlog in regard to such transfer

categories, cannot be restored in future recruitment and as a result the number of vacancies to be filled under each category at any subsequent

recruitment can be only by applying the ratio for appointment to the number of vacancies existing at the time of such subsequent recruitment and

not with reference to the cadre strength. Therefore, the apex court has upheld the special provision, when compared to general provision, in that

regard. But in the present case, there is no special provision to that effect, as considered by the Apex Court in the above judgment, and on the

contrary Regulation 34 mandates that Corporation shall ensure ratio between the direct recruitees and promotees and the posts, which fell vacant

in the respective categories have to be filled from those categories only and no exception is given. However, enabling provision is made for the

departmental candidates by giving age relaxation for apply for direct recruitment. That is to say, that the departmental candidate by qualifying in the

requisite test meant for direct recruitment, can occupy the posts of direct recruitees. Further, as already noticed above, in the present case, under

Annexure - A referred to in Regulation 3, if the eligible promotional candidates are not available, the said posts can be filled by direct recruitment,

but no vice-verse provision is made. The facts of the present case are different from the facts of the case dealt with by Apex Court and hence

same is not applicable to the facts of the case on hand.

24. Along with the material papers, the learned Standing Counsels for the respondent - Corporation, has produced copies of proposal sent by the

Managing Director to the Principal Secretary, Transport, Road and Buildings Department, in R2/684(29)/2009-(R m& C) dated 28.11.2009

seeking permission for recruitment of Drivers, Conductors and other essential staff on regular basis. In the said request, the vacancy position

relating to direct recruitment, has been clearly stated, by furnishing the check list under Annexure VIII and the same is extracted under for better

appreciation:

### CHECK LIST FOR FILLING UP OF THE POSTS BY DIRECT RECRUITMENT

- 1. Name of the Category, which Proposed for filling: JR. ASSTS.
- 2. Scale of pay of the above category: 4,790-10,945
- 3. Total Cadre strength of the above category as per the: 1785

Implementation Committee G.Os.

- 4. No. of persons working in the above category: 1219
- 5. Total vacant posts (i.e., 3-4): 566
- 6. % of Vacancies with reference to sanctioned strength: 32%
- 7. Name of the Recruiting Agency: A.P.S.R.T.C.
- 8. No. of Direct Recruitment Vacancies in the above : 544

Category

9. No. of vacancies already permitted to fill up/under:

Process is on

- 10. Balance vacancies (i.e., 8-9): 544
- 11. When was the last recruitment conducted : --
- 12. How many vacancies were notified in the last : --

Recruitment and how many persons were joined.

13. Justification for filling up of the posts in terms of work: Justification statement

load enclosed.

14. Specific Recommendations/Remarks of the : --

Secretariat Department on the proposal

## JUSTIFICATION FOR FILLING UP THE VACANCIES OF JUNIOR ASSISTANTS

The recruitment regulations provide for direct recruitment quota in the category of Junior Assistants in the departments viz., Personal, finance,

Materials and Purchase Departments. Burt there was no recruitment in the category of Junior Assistants in the last 20 years. Therefore, all the

vacancies in the Personnel and Finance departments are being filled by promoting Conductors, Routine Clerks, Telephone Operators, Comptists

etc. Likewise the vacancies in the Materials and Purchase departments are being filled by promoting Mechanics/Artisans. The Conductors, Routine

clerks, Telephone Operators, Comptists, Mechanics and Artisans etc., are being permitted to write edibility tests and those who qualify in the test

are being promoted as Junior Assistants in the respective departments. These candidates who have put in 10-15 years of service and moulded in

the functioning of parent category are not able to discharge the duties assigned to them properly. A depot which employees 500 to 800 employees

are provided with 2 to 3 Junior Assistants each in the Personnel and Finance Department, to take care of the establishment matters of large

number of Drivers, Conductors and Mechanics. Lake of necessary skills leads to the delay in clearance of cases, which in turn leads to employee

grievances. So the por standards of the candidates who are getting promoted as Junior Assistants is leading to many Industrial Relations problems.

Similarly Materials and Purchase departments are also suffering due to non availability of candidates with the requisite skills. The resistance to

computerization and to implement any changes in the existing system is at high side as there are no direct recruits. Therefore, it is proposed to

conduct direct recruitment of Junior Assistants to fill up the vacancies under direct recruitment quota in all the Departments.

Financial Commitment:

Since the permission is being sought to fill up the existing vacancies that arose due to retirements etc. and all the posts required to be filled are

within the existing sanctions, there would be no additional Financial implications on this recruitment. Moreover all the vacancies in the category of

Junior Assistants are being filled up till now by promoting the Conductors, Routine Clerks, Telephone Operators, Comptists, Mechanics and

Artisans etc. The average pay of a Junior Assistant who gets promoted from the rank of Conductor, Routine Clerk, Mechanic and Artisan etc, is

approximately Rs. 14,000/- per month, whereas for a newly recruited Junior Assistant, the pay would be Rs.6,900/- per month. Therefore, it

would be economical to go for direct recruitment instead of filling the vacancies of Direct recruitment quota also by promotions.

Based on the request, the Government issued G.O.Ms.No.90, Transport Roads & Buildings (TR.II) Department dated 11.6.2010 permitting the

Corporation to make direct recruitment to various categories including 544 posts of Junior Assistants, in different categories. Subsequently, the

Managing Director by letter No.OS4/255(18)2010-PO-III addressed to the Executive director (HRD & Medical) and Secretary to the

Corporation intimated the permission granted by the Government, to the fill up the vacancy in the category of Junior Assistants (P), (F), (MAT)

and (Per) under direct recruitment quota and consequent thereto, the Corporation issued the impugned notification dated 8.11.2011 for direct

recruitment.

25. As already noted above, under the Recruitment Regulations, the departmental candidates are also entitled to apply for direct recruitment,

provided they possess the requisite qualifications and the Regulation 9(2) also provide for age relaxation. Therefore, in order to provide

opportunity to the in-service candidates, the Corporation, as an ancillary notification to the main notification dated 8.11.2011, issued internal

notification dated 10.11.2011 for the in-service candidates, in order to safeguard their interest by granting age relaxation in terms of Regulation

9(2). Unfortunately, this notification, which is beneficial to the in-service candidates, is also challenged in some of the writ petitions noted at

paragraph no.4.

26. Coming to the judgment of the learned single Judge in W.P.17152/1995 dated 23.4.1996, which has been confirmed by the Division Bench in

W.A.No.918/1996 dated 7.8.1996 is concerned, the facts of the said disclose that the Corporation conducted eligibility test for promotion and

prepared a panel and some of the employees were given promotions and some were not given. The life of the panel therein was, one year and

before expiry of the said period, ban was imposed and subsequently, when the Corporation has given notification without exhausting the select

panel, the candidates in the panel approached this Court and this Court held that imposition of ban shall not act detriment to the employees in the

panel and, therefore, the learned single Judge held that without exhausting the panel, giving fresh notification for "in-service" candidates is bad and

accordingly the Corporation was directed to give promotions to the selected in-service candidates. But in the present case, as per the submissions

of the standing counsels for respondent, the life of the panel is in perpetuity and as and when the vacancy arises under promotional quota, the

corporation is willing to give promotions to the selected in-service candidates and the present notification under Regulation 3 for direct recruitment

is for the vacancies meant for them and as per Regulation 34, the vacancies, which fell vacant for direct recruitment for any reason, have to be filled

by the candidates from direct recruitment only. In the present case, the ban was imposed and there was no direct recruitment for many years and

after lifting of the ban, the Corporation considering the vacancies meant for direct recruitment and after seeking permission from the Government

under G.O.Ms.No.90, issued the present impugned notifications, for direct recruitment and by subsequent notification dated 10.11.2011, in-

service employees were also provided opportunity by giving age relaxation. Therefore, the judgment of the learned single Judge relied on by the

counsel for the petitioners, cannot be made applicable to the facts of the present case in all fours.

27. For the foregoing reasons, it is held that the impugned notifications are in accordance with the Recruitment Regulations of the Corporation and

the petitioners failed to make out any case for interference of this Court under Article 226 of the Constitution of India and hence the writ petitions

are devoid of any merits and they are accordingly dismissed at the stage of admission, but having regard to the facts and circumstances, without

costs.