

A.P. PUBLIC SERVICE COMMISSION

v.

PRASADA RAO AND ORS.

(Civil Appeal No. 2043-2046 of 2010 )

FEBRUARY 25, 2010

**[V.S. SIRPURKAR AND DR. MUKUNDAKAM  
SHARMA, JJ.]**

*Service Law – Selection – Select list prepared by Andhra Pradesh Public Service Commission – Directions issued by Tribunal, affirmed by High Court – On appeal, said directions suitably modified by Supreme Court.*

**Dispute arose with regard to the select list prepared by the Andhra Pradesh Public Service Commission, and certain directions were issued by the Tribunal, which were affirmed by the High Court. Hence the present appeals.**

**Disposing of the appeals, the Court**

**HELD:1. There is force in the argument that the directions issued by the Tribunal which are also affirmed by the High Court would create complications and therefore in modification of the orders passed by the Tribunal and affirmed by the High Court, it is directed:**

- (i) That the select list which was prepared by the Andhra Pradesh Public Service Commission pursuant to the judgment and order of this Court dated 14.09.2006 in Civil Appeal No. 4129 of 2006 and which is contained in the official records of the Public Service Commission is restored and that appointment shall be given effect to by the competent

A authority in terms of the seniority position  
ascribed in the said select list as contained in  
the official records of the Public Service  
Commission but subject to the condition that  
B all those candidates who are shown to have  
been selected for the post mentioned in the  
select list as prepared by the Andhra Pradesh  
Public Service Commission and amongst  
them, who have pursuant to the same joined  
C their posts be given an option either to retain  
their existing position and post to which they  
were selected pursuant to the notification No.  
5/1998 for Group-I services or to opt for a new  
post now being offered pursuant to this order;

D (ii) That such a candidate shall be ordered to  
exercise his option within a time frame as  
stipulated by the Public Service Commission.  
The Commission would thereafter act in  
accordance with the rules and in accordance  
with the law in terms of the aforesaid option so  
E exercised and give effect to the same. It is also  
made clear that no option is required to be  
called for or obtained from the candidates who  
are being given offer of appointment for the  
first time pursuant to the selection and in  
F accordance with the merit position in the  
select list which has already been prepared;  
and

G (iii) That after giving effect to the selection in terms  
of clauses (i) and (ii) above, the vacancies, if  
any, would then be filled up by the candidates  
from the select list/merit list in accordance with  
their merit and rules of reservation as per the  
options given earlier or by giving similar

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**option to the candidates selected and working  
in some other post. [Para 3] [1169-H; 1170-A-  
H; 1171-A-B]** A

**1.2. The selected candidates who are being  
appointed for the first time would only be entitled to give  
fresh option and the candidates who had already  
exercised their option would not be entitled to give any  
fresh option. [Para 4] [1171-C]** B

**CIVIL APPELLATE JURISDICTION : Civil Appeal No.  
2043-2046 of 2010.** C

From the Judgment & Order dated 8.10. 2007 of the High  
Court of Andhra Pradesh in Wirt Nos. 17397, 17398, 17399  
and 17400 of 2007.

**WITH** D

C.A. No. 2047 of 2010.

**Altaf Ahmad, R. Sundervardhan, Shyam Divan, H.S.  
Gururaja Rao, Guntur Prabhakar, Y. Rajagopala Rao, Y.  
Ramesh, Y. Ismai Rao, R. Santhan Krishnan, Praveen K.  
Pandey (for D. Mahesh Babu), D. Bharathi Reddy, Anuradha  
Rustogi, G.V.R. Choudhary K. Shivraj Choudhuri, Y. Ramesh,  
Y. Vismai Rao, C.S.N. Mohan Rao, Satish Galla, N. Rajaraman  
for the appearin parties.** E

The Judgment of the Court was delivered by

**V.S. SIRPURKAR, J. 1. Leave granted.** F

**2. Having heard all the learned counsel appearing for the  
parties, we are of the considered opinion that these appeals  
could be disposed of by a common judgment and order as the  
facts of these appeals are similar.** G

**3. We find force in the arguments of some of the counsel  
appearing for the parties that the directions issued by the** H

A Tribunal which are also affirmed by the High Court would create complications and therefore in modification of the orders passed by the Tribunal and affirmed by the High Court, we pass the following orders:-

B (i) We direct that the select list which was prepared  
C by the Andhra Pradesh Public Service Commission  
D pursuant to the judgment and order of this Court  
E dated 14.09.2006 in Civil Appeal No. 4129 of 2006  
and which is contained in the official records of the  
Public Service Commission is restored and that  
appointment shall be given effect to by the  
competent authority in terms of the seniority position  
ascribed in the said select list as contained in the  
official records of the Public Service Commission  
but subject to the condition that all those candidates  
who are shown to have been selected for the post  
mentioned in the select list as prepared by the  
Andhra Pradesh Public Service Commission and  
amongst them, who have pursuant to the same  
joined their posts be given an option either to retain  
their existing position and post to which they were  
selected pursuant to the notification No. 5/1998 for  
Group-I services or to opt for a new post now being  
offered pursuant to the order passed today.

F (ii) Such a candidate shall be ordered to exercise his  
G option within a time frame as stipulated by the  
Public Service Commission. The Commission  
would thereafter act in accordance with the rules  
and in accordance with the law in terms of the  
aforesaid option so exercised and give effect to the  
same. It is also made clear that no option is  
required to be called for or obtained from the  
candidates who are being given offer of  
appointment for the first time pursuant to the  
selection and in accordance with the merit position

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in the select list which has already been prepared. A

- (iii) That after giving effect to the selection in terms of clauses (i) and (ii) above, the vacancies, if any, would then be filled up by the candidates from the select list/merit list in accordance with their merit and rules of reservation as per the options given earlier or by giving similar option to the candidates selected and working in some other post. B

4. The selected candidates who are being appointed for the first time would only be entitled to give fresh option and the candidates who had already exercised their option would not be entitled to give any fresh option. C

5. In terms of the aforesaid order and directions, the appeals stand disposed of. D

B.B.B.

Appeals disposed of.