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## GOVERNMENT OF ANDHRA PRADESH ABSTRACT

Recruitment (Direct) - Selection of candidates against resultant vacancies of Non-joining/  
Relinquishment of selected candidates - Discontinuance of operation of waiting list - Orders Issued.

### GENERAL ADMINISTRATION (SERVICES -A) DEPARTMENT.

G.O.Ms.No. 81

Dt. 22-2-1997

Read the following.

From the Secretary, APPSC, Hyd. Lr.No.2011/RN/5/96., dt. 1-1-1997.

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#### ORDER

1. According to the programme of selection envisaged in G.O.Ms.No.103, G.A. (Ser.A) Department, dt. 3-2-1967, the A.P., Public Service Commission will issue notification inviting applications from the eligible candidates for selection for direct recruitment to the posts under its purview in the State and Subordinate Services and conduct the competitive examinations for the said purpose. On the basis of marks obtained by the candidates in the said competitive examinations the Commission will prepare a merit ranking list and pickup the candidates as per the order of merit duly following the rule of reservation and select them for a specific vacancy and publish the lists of such successful candidates. A list of such selected candidates will also be sent to the concerned appointing authorities. On receipt of the lists, the appointing authorities will issue appointment orders to the selected candidates in accordance with the rules in force.
2. By the orders issued in GO.Ms.No.444, C.A. (Ser.A) Dept., Dt 14-8-1992 the candidate has to join duty within the time limit, of (45) forty five days from the date of despatch of such appointment order which amounts to accepting the same, failing which the offer of appointment will be treated as automatically cancelled, and the name of such candidate shall be deemed to have been deleted from the approved list, and, the A.P. Public Service Commission allot the candidates against these non accepting non-joining, relinquished vacancies, duly picking up the candidates from out of the waiting list.
3. Under rule - 6 of the Rules of procedure, framed by the Andhra Pradesh Public Service Commission the ranking list prepared by the Commission shall remain in force for a period of one year from the date on which the selection list is published on the Notice Board of the Commission or till the publication of the new selection list, which ever is earlier. The Commission may select candidates from the ranking list in force in place of those who relinquish the selection or who do not join duty within the time given and also new requisitions (sent by the appointing authorities). However, the Commission shall have the right to freeze any ranking list for reasons recorded. The Andhra Pradesh Public Service Commission is adopting this rule while making the selection against the resultant vacancies due to relinquishments or non-joinings of selected candidates. The maintenance of this waiting list is causing much difficulty and leading to number of legal complications and thereby, it has become extremely difficult to conduct smooth functioning of the Andhra Pradesh Public Service Commission and the conduct of examination system.

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4. For the purpose of examination, various services are grouped as Group I, Group II (A); Group II (B); Group III and Group IV Services. Each group contains different categories of posts under various services. For example, Group-I services is a Group of posts such as Deputy Collector, Deputy Superintendents of police, Commercial Tax Officers, Regional Transport Officers, District Panchayat Officers, District Registrars etc. The Andhra Pradesh Public Service Commission is allotting exact number of candidates intended depending upon the merit list, and options exercised by the candidates first to the cadre of Deputy collectors then to Deputy Superintendent of Police and so on, with the result after allotment of candidates, if any of the candidates in the category of Deputy collector do not join, The Andhra Pradesh Public Service Commission is allotting the candidates from out of the waiting list. This list actually starts from the candidate below the last selected candidate. In this process, a candidate, lower in merit to the candidate selected earlier for the post of say, Assistant Accountant Officer, District Registrar etc. may get selection as Deputy Collector or Deputy Superintendent of Police and so on. The contention being made in some O.As. before the Courts is that persons in the waiting list have secured lesser number of marks compared to others who were selected, for example in the case of Assistant Director (Survey) the candidate selected as Assistant Director (Survey) claims that he ought to have gone to the next higher category and similarly others in the higher category also are making claim to get selection to the next higher category. Their grievance is that, the resultant vacancies due to non-joining of selected candidates have to be filled up in accordance with the ranking assigned by the Andhra Pradesh Public Service Commission if necessary by recasting the entire select list which was prepared as per merit. But the concept of superior or inferior post is only imaginary.
5. In this connection, the contention of the Andhra Pradesh Public Service Commission is that, the selected candidates having accepted the selections made by the Commission and joined in those posts, cannot turn round and seek selection to other posts especially when the selection was made strictly in accordance with merit and option exercised by them; and this would disturb the whole selection list.
6. Another point has also to be mentioned here: According to programme of selection the appointing authorities shall furnish the estimate of vacancies to the Commission. While forwarding such estimate of vacancies, they should send, among other information, the extracts of their communal rosters showing the appointments made to the service up to date. It is the primary responsibility of the appointing authorities to ensure that the reservation and its application are strictly followed in accordance with the rules. Thus the roster points shall be with reference in the vacancies in the unit of appointing authorities.
7. However it has been the experience that during the course of operation of waiting list, the Andhra Pradesh Public Service Commission is allotting the candidates without observing the roster points.
- It may not be correct to fill up the fall out vacancies with any other categories of reserved communities. The fall out vacancies are to be filled with reference to the roster maintained by the concerned appointing authorities only. This can be taken over if the waiting list is dispensed with so that there shall be no scope for complaints and fall out vacancy can be renotified in the next recruitment.

The Supreme Court of India, in Gujarat State Deputy Executive Engineers Association Vs. State of Gujarat, and the other in A.V. Bhogeswarudu Vs. Andhra Pradesh Public Service Commission has ordered as follows:

1. Gujarat State Deputy Executive Engineer's Association Vs. State of Gujarat. (1994-Supp. (2)Sec-591)

"A candidate in the waiting list in the order of merit has a right to claim that he may be appointed if one or the other selected candidate does not join. But once the selected candidates join and no vacancy arises due to resignation etc. or for any other reason within the period the list is to operate under the rules or within reasonable period where no specific period is provided, then candidate from the waiting list has no right to claim appointment to any future vacancy which may arise unless the selection was held for it. He has no vested right except to the limited extent, indicated above, or when the appointing authority acts arbitrarily and makes appointment from the waiting list by picking and choosing for extraneous reasons."

A waiting list prepared in an examination conducted by the Commission does not furnish a source of recruitment. It is operative only for the contingency that if any of the selected candidates does not join, then the person from the waiting list may be pushed up and be appointed in the vacancy so caused or if there is some extreme exigency the Government may as a matter of policy decision pick up persons in order of merit from the waiting list".

2. A.V. Bhogeswarudu vs. Andhra Pradesh Public Service Commission (JT. 1989 (4) SC-130).

"The only point which requires consideration is as to whether if out of the names recommended for appointment, some candidates do not join, whether the vacancies remaining unfilled should or should not be filled up from out of the remaining successful candidates. We see no justification in the stand of the State Public Service Commission that instead of filling up the vacancies by recommending the candidates next in order of merit out of the present list why a fresh selection should be made. We accordingly dispose of this appeal by directing that the number of vacancies remaining to be filled up on account of non-joining of select candidates for whatever reason, shall be out of the present list".

8. In view of the above problems, this issue has been examined at length. During the course of examination the orders issued by the Law Department, in G.O.Ms.No124, Law (LA & J Courts.C) Department, dt. 5-8-96 have also been taken into consideration which contain rules for direct recruitment to the posts of District Munsifs, by High Court of Andhra Pradesh. According to these rules, in a recruitment year, against number of notified vacancies. Selection shall be made only to the equal no. of posts notified and there shall be no waiting list. In other words, in a recruitment year after selection of the candidates and after issue of appointment orders if the candidate fails to join duty within the stipulated period, that vacancy shall be notified again in the next recruitment year. This eliminates the system of preparing waiting list for fallout vacancies. Though there may

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be a few disadvantages also in not having a waiting list, the balance of advantage lies in dispensing with the waiting list. It has therefore been considered that the system, as is being followed in High Court for recruitment of District Munsifs can also be followed in respect of all the recruitments being made by the Andhra Pradesh Public Service Commission in the matter of direct recruitment duly dispensing with the system of waiting list. When the Andhra Pradesh Public Service Commission has been consulted in this regard, the Andhra Pradesh Public Service Commission has agreed to the proposal in toto and accordingly suggested proposals in the reference read above for dispensing with the present system of waiting list and to follow only the procedure which is being followed by the High Court in making direct recruitment to the category of District Munsifs and requested the Government to issue orders accordingly.

9. Therefore the government, after careful examination, has agreed with the proposal of the Andhra Pradesh Public Service Commission and accordingly direct that hence forth the list of the candidates approved/selected by the Andhra Pradesh Public Service Commission shall be equal to the number of vacancies only including those for reserved communities/categories notified by the unit officers. The fallout vacancies if any due to relinquishment and non-joining etc., of selected candidates shall be notified in the next recruitment.
10. The Andhra Pradesh Public Service Commission shall take further necessary action to amend its rules of procedure accordingly.
11. All the Departments of Secretariat/Head of Departments and the appointing authorities/Estimating authorities are requested to follow these orders scrupulously.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M.S. RAJAJEE,

CHIEF SECRETARY TO GOVERNMENT

