

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

General Administration Department- The Andhra Pradesh State and Subordinate Service Rules, 1996 - Relinquishment of Rights by Members of Service - Amendment to Rule 28 of the Andhra Pradesh State and Subordinate Service Rules, 1996 - Notification - Orders - Issued.

GENERAL ADMINISTRATION (SERVICES-D) DEPARTMENT

G.O.Ms.No.92.

Dated 28.08.2023.
Read the following:-

1. G.O.Ms.No.436, G.A. (Ser.D) Dept., dated 15.10.1996.
2. Orders of Hon'ble High Court of Andhra Pradesh in WP No.21718 of 2022 dated 24.11.2022 & dated 05.07.2023.
3. Orders of Hon'ble High Court of Andhra Pradesh in WP No.21718 of 2022 dated 02.08.2023.

ORDER:-

The Andhra Pradesh State and Subordinate Service Rules, 1996 issued in the G.O. first read above, defined relinquishment of rights by members in Rule 28 as follows:

“any member of a service may, in writing, relinquish any right or privilege to which he may be entitled to, under these rules or the special rules, if, in the opinion of the appointing authority such relinquishment is not opposed to public interest. Such relinquishment once made will be final and irrevocable. Nothing contained in these rules or the special rules shall be deemed to require the recognition of any right or privilege to the extent to which it has been so relinquished:

Provided that no conditional relinquishment or relinquishment of right for a temporary period shall be permitted”.

2. In the reference 2nd read above, the Hon'ble High Court of Andhra Pradesh has been pleased to issue the following order, dated 24.11.2022 in WP No.21718 of 2022 filed by Smt J.Radha, Lecturer in Social Science, Government General Hospital, Ananthapuramu District:

“This Court is constrained to observe that the “gross perversity” as termed by this Court could have been avoided by the Official Respondents herein if they would have suitably amended the Rule 28 of the Andhra Pradesh

State and Subordinate Service Rules, 1996 in terms of the interpretation given by a Division Bench of this Hon'ble Court way back in the year 2006 (which has become final in all respects). The Respondents are directed to suitably amend Rule 28 of the Andhra Pradesh State and Subordinate Service Rules, 1996".

3. In the order dated 09.08.2006, the Hon'ble High Court of Andhra Pradesh in WP No.26654 of 2005 filed by the District Education Officer, Kurnool and 3 others has disposed of the case with the following directions:-

The Tribunal, in its earlier order in Smt. S. Swarna Kumari Vs. Dy. Commissioner of Prohibition and Excise [1], considered the scope and implication of Rule 28 of the A.P. State & Subordinate Services Rules and held thus:

".....A careful perusal of Rule-28, extracted above, would reveal the following:

(1) An option is given to any member of a service to relinquish any right or privilege to which he may be entitled to, under the relevant rules (this includes right or privilege of promotion).

(2) Such relinquishment is subject to acceptance of the appointing authority. Who must be satisfied before acting upon such relinquishment that such relinquishment was not opposed to public interest.

(3) Such relinquishment once made will be final and irrevocable.

(4) Once such relinquishment has come into force, the authorities concerned shall not be required to recognise any right or privilege to the extent to which it has been so relinquished.

The proviso to this Rule contemplates that conditional relinquishment or relinquishment of a right for a temporary period shall not be permitted.....

.....Viewed in this context, a relinquishment of a right or privilege to promotion would only mean that his right to be considered for promotion, while he was occupying a particular place in the seniority list, at a time when he was eligible for promotion by virtue of passing of the tests etc., as required under the then existing rules and in respect of a vacancy, that has arisen at the relevant time has been relinquished. This relinquishment may be permanent.

It is true that conditional relinquishment is not permissible. What is meant is that in respect of that particular opportunity for promotion a member of a service cannot relinquish with a rider that he would claim that privilege of promotion on that happening of certain contingency. For example, if a member