

## **STATUS OF UNIFIED SERVICE RULES IN ANDHRAPRADESH**

The Presidential Order G.S.R 524 (E) was made by the Government of India dt: 18.10.1975. The said Presidential Order G.S.R 524 (E), dt: 18.10.1975 was republished by the State of Andhra Pradesh vide G.O.Ms.No. 674, GAD Dept., dt: 20.10.1975.

1. As per sub para (1) of para 3 of Presidential Order the State Government shall with in a period of 36 months from the commencement of this order, organise classes of posts in the civil service of and classes of civil posts under the state into different local cadres for the different parts of the state to the extent and in the manner provided in para 3 of the Presidential Order. As per sub paras (2) and (3) of Para-3 of the said Presidential Order, all the Non Gazetted categories of Posts in each department shall be organised into local cadres. The posts belonging to each specified Gazetted Category in each department in each zone shall be organised into a separate cadre as per Para-3 (4) of the Presidential Order. Specified Gazetted category means, any gazetted category specified in the Third Schedule and includes any other Gazetted category notified as such by the Central Government as per Para-2(j) of the Presidential order.

The Non Gazetted posts of Teachers in Government schools of School Education Department were organised into local cadres vide G.O.Ms.No. 529 Education Dept.,dt: 14.5.1976. The following gazetted posts of School Education Dept., which are specified in the Third Schedule of the Presidential Order are organised into Zonal Cadre Posts:

## THE THIRD SCHEDULE

### SPECIFIED GAZETTED CATEGORIES

		Sl.No.
Category	Name of the Department	
(1)	(2)	(3)
23.	Deputy Educational Officer, Head Master and Head Mistress.	Education Dept.
26.	Lecturers, Govt. Colleges of Education And Govt. Colleges of Comprehensive Education.	-do-
27.	Parishad Educational Officer.	-do-

As per Para-3 of the Presidential Order, the State Government has no power to organise the Non Gazetted Posts which were created after 36 months from the date of issue of Presidential Order into Local Cadre Posts without the consent of the President. The State Govt. has no power to organise the Gazetted posts into local cadres which are not included in the Third Schedule of the Presidential Order.

The posts of the Teachers in Panchayat Samities (Mandal Parishad) and Zilla Parishad Schools were provincialized vide G.O.Ms.No.168, dt: 20.3.1981. The Andhra Pradesh Panchayat Samithis and Zilla Parishad Act 1959 was amended by an Ordinance No. 20 of 1981 dt: 8.7.1981 so as to declare certain officers and servants appointed there under to be members of civil service of the State and holders of civil posts under the State. The Ordinance was subsequently became Act No. 34 of 1981. Under the said enactment the Officers and Servants appointed under A.P. Panchayat Samities and Zilla Parishads were treated as Civil Servants and holders of Civil Posts under the State. Appropriate amendments were also brought to the A.P.Panchayat Samities and Zilla Parishad Act empowering the

Government to create posts of such officers and employees to carry out the purpose of the Act, which was hitherto within the province of Zilla Parishad and Panchayat Samities. Further salary and allowance of the said employees are to be paid by the Government from the consolidated fund of the State. The said employees continue to hold the Civil Posts subject to rules made under Article 309 of the Constitution of India. The Government vide G.O.Ms.No.155, dt:1.3.1983 issued orders that A.P. State and Subordinate Service Rules will be applicable to the Teachers and other employees working in Zilla Parishad and Panchayat Samities. The Government also issued G.O.Ms.No. 156, dt: 1.3.1983 that The Andhra Pradesh Civil Service (Conduct) Rules were made applicable to the Teachers and other employees working in Zilla Parishad and Panchayat Samities Schools. The Government vide G.O.Ms.No. 278 dt: 20.6.1983 amended A.P. Education Subordinate Service Rules,1962 issued vide G.O.Ms.No.78 Dt:10.01.1962 and adopted the A.P. Education Subordinate Service Rules1962 to the Teachers working in Zilla Parishad and Panchayat Samities w.e.f. 20.3.1981 i.e. the date of provincialized of the Teachers vide G.O.Ms.No. 168, dt: 20.3.1981. In view of the said amendment, A.P. Education Subordinate Service Rules1962 consists of two parts. Part-1 shall deal with the condition of service of the categories of personnel in the Education Department i.e. Categories of teachers in Government Schools and Part-2 shall deal with the condition of service of the categories of teachers in Panchayat Samities and Zilla Parishad Schools. The Government vide G.O.Ms.No. 488, GAD Dept., dt: 28.9.1994 transferred the subject matter pertaining to "Teachers" hitherto being dealt within the Panchayat Raj, Rural Development and Relief Department is transferred to Education Department along with the Staff with immediate effect.

In view of the Teachers working in Zilla Parishad and Panchayat Samities (Mandal Parishad) Schools were declared as members of civil service of the State and holders of civil posts, brought into A.P. Education Subordinate Service Rules, transferred the subject matter of the Teacher from the Panchayat Raj and Rural Development Department to Education Department, the salaries are being drawn from the School Education Department and from the consolidate fund of the State, the teachers who were employees of Panchayat Raj Institutions i.e. Panchayat Samities and Zilla parishads became the members of the Civil Service and holders of civil posts of Education Department under the control of School Education

Department. As per the Presidential Order the employees under the control of School Education, Intermediate Education and Collegiate Education are the employees of the Education Department.

All the non-gazetted employees of Panchayat Raj Institutions i.e. Panchayat Samities and Zilla Parishads became members of civil service and holders of civil posts of Panchayat Raj Department as per G.O.M.sNo.168, dt: 20.3.1981 and Ordinance No. 20 of 1981, which subsequently became Act. No. 34 of 1981.

Non Gazetted employees, Gazetted Officers such as Mandal Parishad Development Officer, Deputy Development Officer etc, of Panchyat Raj Department, teachers and Parishad Educational Officers of Education Department, Agriculture Officers of Agriculture Department and employees of women and Child Welfare Department etc. are working in Panchayat Raj Institutions i.e. Panchayat Samities and Zilla Parishads.

The Government vide G.O.Ms.No. 883, Dt: 5.11.1982 created a new cadre of Head Master in Government Secondary Schools in the pay scale of Rs. 900-40-1300-50-1500/- from the date of issue of the said order. The said new cadre of Head Master post was created dt: 5.11.1982 i.e. after 36 months from the date of issue of Presidential Order 1975. The said newly created Non Gazetted Head Master post was not organised into local cadre with the consent of the President of India. The post of Head Master in Government in Secondary Schools (Govt. High Schools) declared as Gazetted Post vide G.O.Ms.No. 308, dt: 14.9.1992. The post of Head Master in Zilla Parishad High Schools was declared as Gazetted Post vide G.O.Ms.No. 316, dt: 19.9.1992. The post of non-gazetted Mandal Education Officer (MEO) was created vide G.O.Ms.No. 605, dt: 10.12.1986. Govt. has not issued any orders redesignating non gazetted posts of Deputy Inspector of Schools as non-gazetted posts of MEOs. The post of MEO was upgraded to that of Gazetted Cadre vide G.O.Ms.No. 233, dt: 21.7.1998. The post of Deputy Inspector of School, Project Officers (Non Formal Education) were upgraded to that of Gazetted cadre vide G.O.Ms.NO. 452, dt; 13.10.1998. The Post of Project Officers (NFE) were abolished due to abolition of Non Formal Education Scheme. The post of Gazetted Deputy Inspector of Schools were not organised into local cadres as the said post

was not insert in the Third schedule of the Presidential Order. The Gazetted posts inserted the Third schedule of the Presidential Order are only to be organised into local cadre as per para 3(4) of the Presidential Order. 29 posts of Gazetted Deputy Inspector of Schools are existing as on 11.6.2003. Out of these 29 posts of Gazetted Deputy Inspector of Schools, 19 Gazetted Dy. Inspector of Schools were re-designated as Gazetted Mandal Education Officer and the remaining 10 posts of Gazetted Dy. Inspector of Schools were adjusted as Gazetted Head Masters of Upgraded High Schools vide G.O.Ms.No. 524, Education Dept.,dt: 11.6.2003. The posts Lecturers (DIET) were declared as Gazetted vide G.O.Ms.No. 202, dt: 5.7.1994.

The Teachers and Head Masters working in Zilla Parishad and Panchayat Samities (Mandal Parshad) Schools and Government Schools are the members of Civil Service of the State and holders of Civil Post in the Education department (Under the control of School Education Department) and they are governed by the service rules issued by the Department of School Education under Article 309 of the Constitution of India and their salaries are being paid from the budget of School Education Department and from the consolidated fund of the State.

The State Govt. of Andhra Pradesh issued unified AP School Education Subordinate service rules vide G.O.Ms.40 Dt: 07.02.1992 for the non-gazetted posts of School Education Department including the teachers in Govt., Zilla Parishad and Panchayat Samiti (Mandal Parishad) Schools in supersession of the previous rules.

The said rules were challenged in O.A.No.3343/1992 and batch. The Honourable APAT vide its order dated 30.09.1997 disposed the O.A.No.3343/1992 and batch with the following directions that the Govt. shall take all the necessary corrective measures in the rules framed under G.O.Ms.No.40 Dt: 07.02.1992 and shall not be acted upon the said rules in any manner by the Govt. till the end of February 1998 are till the rules are framed afresh. as the learned Advocate General appearing for the state conceded that G.O.Ms.No.40 Dt: 07.02.1992 in the present form is defective on several aspects and implementation of the same as it stands is not at all possible and therefore the rules and the G.O. shall not be implemented without rectification of the defects, deficiency and lacunae.

The State Govt. of Andhra Pradesh issued unified service rules for the Gazetted officers of the School Education Department vide G.O.Ms.No.505 dt:16.11.1998 and Non-Gazetted teachers vide G.O.Ms.No.538 Dt:20.11.1998.

The said service rules were challenged by certain Govt. teachers working in Govt. Schools in Honourable APAT. The Honourable APAT dismissed the application filed by the petitioners dt: 04.05.2000. The petitioners filed writ Petitions in the Honourable High Court in W.P.No.11325 of 2000 and batch. The Honourable High Court passed the following order dt: 18.09.2003 in W.P.No.11325 of 2000 and batch (M Kesavulu and others vs State of Andhra Pradesh and others) on the ground that integration of non-local cadre teachers working in Z.P and M.P schools with already organised local cadre teachers working in Government schools does not arise.

“G.O.Ms.No.538 Education Department dt: 20.11.1998 (AP School Educational Subordinate service rules, 1998) is squashed restoring the rules framed by Govt. in G.O.Ms.No.278 dt: 20.06.1983. As far as G.O.Ms.No.505 dt: 16.11.1998 is concerned it is declared as invalid to the extent of the post covered by G.O.Ms.No.529 dt: 14.05.1976”.

The teachers working in Z.P and M.P schools and in Government schools are under the control of Department of School Education only.

The Government of Andhra Pradesh promulgated Andhra Pradesh School Education Teachers and other employees (Abolition of existing Service cadres and regulation of recruitment and condition of service) ordinance 2005(ordinance12 of 2005) Dt: 13.07.2005. The AP School Education Service rules were issued vide G.O MS.NO.95 dt: 25.07.2005 under section 5 and 12 of ordinance 12 of 2005 for first and second level Gazetted officers of the school education Department and The AP School Education Subordinate Service rules were issued vide G.O MS No.96. Dt: 25.07.2005 under section 5 and 12 of ordinance 12 of 2005 for the non Gazetted teachers of Government, ZP and MP Schools. The ordinance 12 of 2005 was repealed by an act 27 of 2005. The Honourable high court of Andhra Pradesh struck down Act 27 of 2005 in its entirety and held that the rules in GO.MS.Nos.95.and 96 do not survive after the parent Act 27 of 2005 has been struck down.

The Government of Andhra Pradesh challenged the judgments of Honourable High court in State of AP and others vs M.Kesavulu and others in C.A.Nos 4886-4901 of 2009 and in Government of A.P vs P.Vema reddy in C.A.Nos 4878-4885 of 2009 in the Honourable Supreme Court

The Honourable Supreme Court in civil appeal nos. 4886 – 4901 of 2009 in State of AP and others vs M Kesavulu and others in civil appeal nos. 4878-4885 of 2009 in Government of A.P vs P.Vemareddy dt: 30.09.2015 passed the following orders.

“We see no reason to interfere with the well-considered decision in exercise of our jurisdiction under article 136 of the Constitution of India, while dismissing the appeals and the special leave petitions, we deem it appropriate to make the following observations/directions.

Since the recruitment to the local authorities, the Panchayat samitis and Zilla Parishad are said to have been done in compliance in para 8 of the Presidential Order, the State Government is at liberty to send a proposal to the Union of India for obtaining the approval of President of India to integrate the teachers of Panchayat Samitis and Zilla Parishad who are also government servants with the existing local cadres of teachers. As and when such proposal is sent to the union of India the same shall be considered at an early date”.

In view of the directions of the Supreme Court two proposals were sent to Govt. of India by the State Govt. for amendments to the Presidential Order 1975.

Proposal(1) (for non gazetted posts): To insert “ The posts belonging to each non Gazetted category of teachers in Mandal Parishad, Zilla Parishad and Govt. schools in each district shall be organised into a separate integrated cadre”. In paragraph 3 of the Presidential Order 1975.

Proposal (2) (for gazetted posts): In the Third Schedule of the Presidential Order the following entries shall be inserted.

<b>Category</b>	<b>Name of the Department</b>
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(2)	(3)
Mandal Educational Officer, Headmaster and Headmistress in Govt. and Zilla Parishad High Schools.	Education Department
Senior Lecturer, District Institute of Education and Training.	Education Department
Lecturer, District Institute of Education and Training.	Education Department

(Since School Education, Intermediate Education and Collegiate Education comes under Education Department as per Presidential Order).

The Govt. of India issued two amendments to the Presidential Order as proposed by the State Govt. (1) (for non-gazetted posts) GSR 638 (E) dt:23.06.2017. This order shall be deemed to have come into effect from the twentieth day of November, 1998. The said GSR 638 (E) is republished by the State of Andhra Pradesh vide G.O.Ms. No.81 GAD Dt: 04.07.2017 and (2) (for gazetted posts) GSR 636 (E) dt:23.06.2017. This order shall be deemed to have come into effect from the sixteenth day of November, 1998. The said GSR 636 (E) is republished by the State of Andhra Pradesh vide G.O.Ms. No.82 GAD Dt: 04.07.2017

The Govt. of Andhra Pradesh organised non-gazetted teachers into integrated local cadres of each district with effect from 20-11-1998 and the Gazetted posts inserted in the Third schedule of the Presidential Order namely Mandal Educational Officer, Headmaster and Headmistress in Govt. and Zilla Parishad High Schools, Senior Lecturer, District Institute of Education and Training and Lecturer, District Institute of Education and Training as zonal cadres with effect from 16.11.1988 vide G.O.Ms.No.72 dt:20.09.2017 by making modifications to G.O.MS.No.529 dt:14.05.1976.

In view of the said two amendments in the Presidential Order, the Govt. of Andhra Pradesh issued AP Educational Service rules, 2017 to all the Gazetted posts of the School Education Department vide G.O.MS.No.73 Dt:20.09.2017 in



supersession of the rules issued in G.O.Ms.No.259 GAD dt:09.02.1962, G.O.Ms.No.505 Education (Services-I) dt: 16.11.1998 and special rules/Adhoc rules issued from time to time so far as they relate to the posts included in AP Educational Service rules, 2017. The rules made shall be deemed to have come into force with effect from the 16<sup>th</sup> November 1998. The Govt. of Andhra Pradesh also issued AP Educational Subordinate Service rules, 2017 to all the non-gazetted teachers of the School Education Department vide G.O. MS .No.74 Dt: 20.09.2017 in supersession of the rules issued in G.O.Ms.no.78 GAD dt: 10.01.1962 and Adhoc rules issued from time to time so far as they relate to the posts included in AP Educational subordinate service rules, 2017. The rules made shall be deemed to have come into force with effect from the 20<sup>th</sup> November 1998

The Honourable High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in W.P.No.32717 of 2017 and 32738 of 2017 dt: 22.09.2017 passed the following order against the orders of Honourable APAT in OA Nos. 2670 of 2017 and 2671 of 2017 dt: 18.09.2017.

“Feeling aggrieved by non-granting of interim orders for stay of operations of Presidential Order dt: 23.06.2017, of the Union of India, inserting para 2 (A) in the Andhra Pradesh public employment (Organization of Local cadres and regulation of direct recruitment) order, 1975 the applicants in original Application Nos. 2670 and 2671 of 2017 on the file of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short ‘the Tribunal’) filed this writ petitions.

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The Learned Special Govt. Pleader representing the Learned Advocate General for the State of Andhra Pradesh did not dispute the fact that the orders impugned both in writ petitions Nos.23267 and 23274 of 2017 before this court and OA Nos.2670 and 2671 of 2017 before the Tribunal are the same. He has, however submitted that in pursuance of the impugned presidential Order, certain G.Os were issued and the impugned amendment was also implemented.

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Accordingly, Status quo as on to date shall be maintained by the respondents in all respects”.

The Honourable High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh disposed W.P.No.32717 of 2017 and 32738 of 2017 dt: 07.02.2018 with the following order.

“Both these Writ petitions are preferred against the refusal by the Andhra Pradesh Administrative Tribunal to grant stay of operation of the Presidential Order dated 23.06.2017, issued by the Union of India, inserting Para-(2-A) in the Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975. A Division Bench of this Court, by its order dated 22.09.2017, directed the respondents to maintain status-quo as on the date of the order. The Writ Petitions are coming up, for extension of interim orders, today.

Learned Advocate-General for the State of Andhra Pradesh would submit that, since these Writ Petitions are filed against the refusal by the Andhra Pradesh Administrative Tribunal to grant an interim order, as the main O.As are still pending on the file of the Tribunal, and were listed on the Board of the Tribunal even today, no useful purpose would be served in keeping these Writ Petitions pending on the file of this Court and, instead, this Court may consider directing that the order of the status-quo, passed in these two Writ Petitions earlier on 22.09.2017, be maintained during the pendency of the O.As; and to direct the Tribunal to dispose of both the O.As within a specified time frame.

As these Writ petitions have been filed against the refusal of the Andhra Pradesh Administrative Tribunal to grant an interim order, ends of justice would be met if the order of status-quo, 2 passed by the Division Bench of this Court on 22.09.2017, is directed to be maintained during the pendency of the O.As; and the A.P. Administrative Tribunal is requested to dispose of O.A.Nos.2670 and 2671 of 2017 with utmost expedition. We have no reason to doubt that the petitioners herein (applicants in the O.As) would co-operate in the early disposal of the O.As.

Both the Writ Petitions are, accordingly, disposed of the miscellaneous petitions pending, if any, shall stand dismissed. There shall be no order as to costs”.

In view of closure of APAT, the OA Nos.2670 and 2671 of 2007 were transferred to the Honourable High Court of Andhra Pradesh. The OA Nos.2670 and 2671 of 2017 were renumbered as W.P.(AT) Nos.1113 and 1114 of 2021 and they are pending in the Honourable High Court of Andhra Pradesh.

It is clear from the above that there is “status quo orders as on to date” on GSR 638 (E) dated 23.06.2017 and there is no status quo orders on GSR 636 (E) dated 23.06.2017.

GSR 636 (E) dated 23.06.2017 pertains to three categories of Gazetted Officers stated in that order. These three categories posts are included in the Third schedule of Presidential Order. The said posts were organised into local cadres as zonal cadres vide Go. MS No: 72 dated 20.09.2017 with effect from 16.11.1998. AP Educational service rules were issued vide G.O.Ms.No:73 dated 20.09.2011 with effect from 16.11.1998 in supersession of the rules issued vide Go.Ms.No:505 dated 16.11.1998 and all the previous rule as so far as the relate to the posts included in the rules issued vide Go.Ms.No:73 dated 20.09.2017. The posts of (1) Mandal Educational Officers, Headmaster in Govt, and Zilla Parishad High schools (2) Senior Lecturers DIETs and (3) Lecturers DIETs which were included in Third Schedule of Presidential Orders, organised into local cadres as stated above in G.O.Ms.No.72 Dt: 20.11.2017 are included in the service rules issued vide Go.Ms.No:73 dated 20.09.2017.

It is clear from the above that in respect of GSR 636 (E) Dt: 23.06.2017 there is no status quo orders on GSR 636 (E) dated 23.06.2017, G.O.Ms. No: 72 dated 20.09.2017 and Go.Ms.No:73 dated 20.09.2017. There is “Status quo as on today” order with regard to GSR 638 (E) Dt: 23.06.2017 by the Honourable High Court Dt: 22.09.2017. The posts of the non-gazetted teachers mentioned in GSR 636 (E) Dt: 23.06.2017 were organised into local cadres vide G.O.Ms.No.72 Dt: 20.09.2017. The service rules for all the non-gazetted teachers posts were issued vide G.O.Ms.No.74 Dt: 20.09.2017 in supersession of all rules issued to the non-gazetted teachers posts

in Govt., Z.P. and M.P. Schools. The said rules shall deemed to have come into force with effect from 20.11.1998.

In view of the above:

1. There are no status-quo orders on GSR 636 (E) Dt: 23.06.2017, G.O.Ms.No.72 Dt: 20.09.2017 and G.O.Ms.No.73 Dt: 20.09.2017. The rules issued in G.O.Ms.No.73 Dt: 20.09.2017 is in force. As such Recruitment, Transfers and Promotions to all the Gazetted posts under the School Education Department are to be effected as per AP Education Service rules issued vide G.O.Ms.No.73 Dt: 20.09.2017 with effect from 20.09.2017.

2. At the time of Hearing the case on 22.09.2017, the Learned Government Pleader submitted to the Honourable Court that impugned amendments (Presidential Amendment Orders) were implemented. The Honourable High Court on 22.09.2017 passed "Status-quo as on to date" order on GSR 638 (E) Dt: 23.06.2017 only. The non-gazetted teachers posts of Govt,ZP and MP schools mentioned in GSR 638 (E) Dt: 23.06.2017 are organised into local cadres with effect from 20.11.1998 vide G.O.Ms.No.72 Dt: 20.09.2017 and AP Educational Subordinate Service rules were issued to all the non-gazetted teachers of Govt., ZP and MP Schools with effect from 20.11.1998 vide G.O.Ms.No.74 Dt: 20.09.2017 before the Honourable High Court issued Status-quo as on to date order on 22.09.2017. In view of the above legal opinion may be obtained with regard to implementation of AP Education service rules issued by G.O.Ms No: 74 Dt:20.09.2017.

(Requested suggestions for additions, corrections and deletions with authentic Government Orders and Judgement of Honourable Courts from the Teachers and Officers of School Education Department)

**Date: 06.01.2025**

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