

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM : NAGALAND : MIZORAM AND
ARUNACHAL PRADESH)

ITANAGAR PERMANENT BENCH**W. A. No. 11 (AP) of 2016**

1. Tasso Kari, Govt. College Yachuli,
PO/PS-Yachuli, Lower Subansiri District,
Arunachal Pradesh.
2. Makyem Ngupok, Govt. College Seppa,
PO/PS-Seppa, East Kameng District,
Arunachal Pradesh.,
3. Nuri Lego, Govt. College Itanagar,
PO/PS-Itanagar, Papum Pare District,
Arunachal Pradesh.
4. Gepi Jiri, Govt. College Itanagar,
PO/PS-Itanagar, Papum Pare District,
Arunachal Pradesh.
5. Peina Choden, Govt. College Bomdila,
PO/PS-Bomdila, West Kameng District,
Arunachal Pradesh.
6. Dakli Lombi, Govt. College Doimukh,
PO/PS-Doimukh, Papum Pare District,
Arunachal Pradesh.
7. Kamin Pertin, Govt. College Seppa,
PO/PS-Seppa, East Kameng District,
Arunachal Pradesh.
8. Karma Lhadron Transgpoder, Govt. College Deomali,
PO/PS-Deomali, Tirap District,

Arunachal Pradesh.

..... **Appellants**

By Advocates:

Mr. P.K. Tiwari, Sr. Counsel,

Mr. Tony Pertin,

Mr. R.J. Das,

Mr. B. Das,

- Versus -

1. Miss Ngilyang Otung, D/o Sri Ngilyang Tamo,
Village-Tajang, PO & PS-Ziro,
Lower Subansiri District,
Arunachal Pradesh.
2. Miss Tage Ankha, D/o Sri Tage Siri,
Village-Amdars Tage, PO & PS-Ziro,
Lower Subansiri District,
Arunachal Pradesh.
3. The Director, Higher & Technical Education,
Govt. of Arunachal Pradesh,
Itanagar.
4. The Controller/Deputy Secretary,
Arunachal Pradesh Public Service Commission,
Govt. of Arunachal Pradesh,
Itanagar.
5. The Chairman, APPSC,
Govt. of Arunachal Pradesh,
Itanagar.
6. The Arunachal Pradesh Public Service Commission,
represented by the Secretary, Govt. of Arunachal
Pradesh, Itanagar.

..... **Respondents.**

By Advocates:

Mr. RH Nabam, Addl. AG, AP,

Mr. T. Omo, for private respondents/writ petitioners.

WITH

W. A. No. 12 (AP) of 2016

1. Tasso Kari, Govt. College Yachuli,
PO/PS-Yachuli, Lower Subansiri District,
Arunachal Pradesh.
2. Makyem Ngupok, Govt. College Seppa,
PO/PS-Seppa, East Kameng District,
Arunachal Pradesh.,
3. Nuri Lego, Govt. College Itanagar,
PO/PS-Itanagar, Papum Pare District,
Arunachal Pradesh.
4. Gepi Jini, Govt. College Itanagar,
PO/PS-Itanagar, Papum Pare District,
Arunachal Pradesh.
5. Pema Choden, Govt. College Bomdila,
PO/PS-Bomdila, West Kameng District,
Arunachal Pradesh.
6. Dakli Lombi, Govt. College Doimukh,
PO/PS-Doimukh, Papum Pare District,
Arunachal Pradesh.
7. Kamin Pertin, Govt. College Seppa,
PO/PS-Seppa, East Kameng District,
Arunachal Pradesh.
8. Karma Lhadron Transgpoder, Govt. College Deomali,
PO/PS-Deomali, Tirap District,
Arunachal Pradesh.

..... **Appellants**

By Advocates:
Mr. P.K. Tiwari, Sr. Counsel,
Mr. Tony Pertin,
Mr. R.J. Das,
Mr. B. Das,

- Versus -

1. Miss Ngilyang Otung, D/o Sri Ngilyang Tamo,
Village-Tajang, PO & PS-Ziro,
Lower Subansiri District,
Arunachal Pradesh.
2. Miss Tage Anka, D/o Sri Tage Siri,
Village-Amdars Tage, PO & PS-Ziro,
Lower Subansiri District,
Arunachal Pradesh.
3. The Director, Higher & Technical Education,
Govt. of Arunachal Pradesh,
Itanagar.
4. The Controller/Deputy Secretary,
Arunachal Pradesh Public Service Commission,
Govt. of Arunachal Pradesh,
Itanagar.
5. The Chairman, APPSC,
Govt. of Arunachal Pradesh,
Itanagar.
6. The Arunachal Pradesh Public Service Commission,
represented by the Secretary, Govt. of Arunachal
Pradesh, Itanagar.

..... Respondents,

By Advocates:

Mr. RH Nabam, Addl. AG, AP,

Mr. T. Omo, for private respondents/writ petitioners.

WITH

W. A. No. 13 (AP) of 2016

1. The Arunachal Pradesh Public Service Commission,
represented by the Secretary, Govt. of Arunachal
Pradesh, Itanagar.
3. The Chairman, APPSC,
Govt. of Arunachal Pradesh,
Itanagar.
4. The Controller/Deputy Secretary,
Arunachal Pradesh Public Service Commission,
Govt. of Arunachal Pradesh,
Itanagar.

..... Appellants

By Advocates:
Mr. M. Borah,
Mr. N. Pada, S/C, APPSC

- Versus -

1. Miss Ngilyang Otung, D/o Sri Ngilyang Tamo,
Village-Tajang, PO & PS-Ziro,
Lower Subansiri District,
Arunachal Pradesh.
2. Miss Tage Ankha, D/o Sri Tage Siri,
Village-Amdars Tage, PO & PS-Ziro,
Lower Subansiri District,
Arunachal Pradesh.
3. The Director, Higher & Technical Education,
Govt. of Arunachal Pradesh,
Itanagar.

..... Respondents.

By Advocates:
Mr. T. Omo, for resp. Nos. 1 and 2
Mr. R. H. Nabam, Addl. AG for resp. No.3

WITH

W. A. No. 14 (AP) of 2016

1. The Arunachal Pradesh Public Service Commission,
represented by the Secretary, Govt. of Arunachal
Pradesh, Itanagar.
3. The Chairman, APPSC,
Govt. of Arunachal Pradesh,
Itanagar.
4. The Controller/Deputy Secretary,
Arunachal Pradesh Public Service Commission,
Govt. of Arunachal Pradesh,
Itanagar.

..... **Appellants**

By Advocates:

Mr. M. Borah,

Mr. N. Pada, S/C, APPSC

- Versus -

1. Miss Ngilyang Otung, D/o Sri Ngilyang Tamo,
Village-Tajang, PO & PS-Ziro,
Lower Subansiri District,
Arunachal Pradesh.
2. Miss Tage Ankha, D/o Sri Tage Siri,
Village-Amdars Tage, PO & PS-Ziro,
Lower Subansiri District,
Arunachal Pradesh.
3. The Director, Higher & Technical Education,
Govt. of Arunachal Pradesh,
Itanagar.
4. Tasso Kari, Govt. College Yachuli,
PO/PS-Yachuli, Lower Subansiri District,
Arunachal Pradesh.
5. Makyem Ngupok, Govt. College Seppa,
PO/PS-Seppa, East Kameng District,
Arunachal Pradesh.,
6. Nuri Lego, Govt. College Itanagar,

- PO/PS-Itanagar, Papum Pare District,
Arunachal Pradesh.
7. Gepi Jini, Govt. College Itanagar,
PO/PS-Itanagar, Papum Pare District,
Arunachal Pradesh.
 8. Pema Choden, Govt. College Bomdila,
PO/PS-Bomdila, West Kameng District,
Arunachal Pradesh.
 9. Dakli Lombi, Govt. College Doimukh,
PO/PS-Doimukh, Papum Pare District,
Arunachal Pradesh.
 10. Kamin Pertin, Govt. College Seppa,
PO/PS-Seppa, East Kameng District,
Arunachal Pradesh.
 11. Karma Lhadron Transgpoder, Govt. College Deomali,
PO/PS-Deomali, Tirap District,
Arunachal Pradesh.

..... Respondents.

By Advocates:

Mr. T. Omo, for private respondents/writ petitioners

Mr. R. H. Nabam, Addl. AG for resp. No.3

BEFORE

THE HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA
THE HON'BLE MR. JUSTICE AJIT BORTHAKUR

Dates of hearing: 21-11-2016 & 24-11-2016

Date of Judgment and Order: 07-12 -2016

JUDGMENT & ORDER (CAV)

(Michael Zothankhuma,J)

Heard Mr. P. K. Tiwari, learned Senior Counsel for the appellants in WA 11 (AP) 2016 and WA 12 (AP) 2016 and Mr. N. Pada, counsel for the appellants in WA 13(AP) 2016 and WA 14 (AP) 2016. Also heard Mr. R. H. Nabam, learned Addl. Advocate General, Arunachal Pradesh and Mr. T. Omo, learned counsel appearing on behalf of the private respondents/writ petitioners.

2. The appellants in WA 11 (AP) 2016 and WA 12 (AP) 2016 have challenged the judgment and order dated 18-11-2014 passed in WP(C) No. 433 (AP) 2013 and WP(C) No. 197 (AP) 2014.

3. The brief facts of the case is that the Education Department, Govt. of Arunachal Pradesh, had made a requisition on 17-07-2013 to the Arunachal Pradesh Public Service Commission (APPSC), for filling up of 68 posts, out of which there were 6 (six) vacant posts of Assistant Professor (Economics). In pursuance to the requisition made, the APPSC issued an advertisement dated 24-07-2013 for filling up of six posts of Assistant Professor (Economics). The Advertisement dated 24-07-2013 also stated that the vacancy position and reservation of posts were subject to variation. As per the advertisement, the last date for receiving the application forms by the APPSC was 22-08-2013. In the meantime, the Education Department made another requisition dated 02-08-2013 for filling up of an additional 75 posts, out of which there were 11 (eleven) vacant posts of Assistant Professor (Economics). The requisition dated 02-08-2013 stated that the said requisition was in continuation of the earlier requisition dated 17-07-2013. The APPSC did not issue any fresh advertisement or corrigendum for the subsequent requisition for filling the additional 11 posts of Assistant Professor (Economics).

4. An interview was held between 08-10-2013 and 10-10-2013, in pursuant to the advertisement dated 24-07-2013. A select list of 14 persons was made by the APPSC, which included the present appellants and

subsequently, all the 14 persons were appointed as Assistant Professor (Economics) vide order dated 09-01-2014.

5. That prior to the interview held between 08-10-2013 and 10-10-2013, the private respondents/writ petitioners had submitted their applications for participating in the selection process for appointment to the 6(six) vacant posts of Assistant Professor (Economics) as per the advertisement dated 24-07-2013. As they had not submitted their ST Certificates, which was required as per the advertisement, the applications of the private respondents/writ petitioners were rejected by the APPSC.

6. The private respondents/writ petitioners being aggrieved with the rejection of their applications, they filed WP(C) 433 (AP) 2013 praying that they should be allowed to participate in the selection process.

7. On the basis of an interim order passed by the learned Single Judge, the private respondents/writ petitioners were allowed to participate in the selection process and accordingly they were allowed to sit in the interview conducted by the APPSC. However, the result was not be declared by the APPSC without the leave of this Court.

8. That after the selection process was over and the State Government had appointed 14 persons out of the 17 vacancies requisitioned for filling up the posts of Assistant Professor (Economics), WP(C) 433 (AP) 2013 was amended by the private respondents/writ petitioners, by making a challenge to appointment of the appellants herein, on the ground that the State respondents could not have appointed more persons than the vacant posts advertised by way of the advertisement dated 24-07-2013.

9. The learned Single Judge thereafter, relying upon the law laid down by the Apex Court in the case of **Mukul Saikia and Others Vs. State of Assam and Others**, reported in (2009) 1 SCC 386, held that the APPSC and the State respondents could not have selected and

appointed any candidate beyond the notified 6 vacancies as per the advertisement dated 24-07-2013. Accordingly, the APPSC was directed to issue fresh advertisement for making recruitment to the subsequent 11 vacant posts of Assistant Professor (Economics), in terms of requisition letter dated 02-08-2013. However, the learned Single Judge did not set aside the appointment orders of the appellants, even though they had been appointed against the additional vacancies that had arisen and as reflected in the second requisition made by the State Government on 02-08-2013. The learned Single Judge also made an observation that this Court, in various orders, had held that the rejection of candidates for non-furnishing of their ST Certificates could not be said to be an arbitrary decision. Thus by the above observation, the private respondents/writ petitioners right to participate in the selection process came to an end.

10. The appellants' counsel submits that the impugned judgment and order dated 18-11-2014 is liable to be set aside as the mandate of the Supreme Court is to the effect that the Public Service Commission can recommend more names than the notified vacancies in the advertisement, if the vacancies had been requisitioned for by the Govt., before the finalization of the selection process. The appellants counsel also submits that consequently, the State Government can also appoint persons to post beyond the advertised number of posts.

11. The appellants counsel submits that there being a variation clause in the advertisement dated 24-07-2013, the APPSC and the State Government could fill posts beyond the advertised posts. Also the requisition for filling up of the additional 11 vacancies had been sent to the APPSC by the State Government and received by the APPSC, prior to the last date for submission of applications, in terms of the advertisement dated 24-07-2013. The appellants counsel, thus, submits that as per the judgments of the Apex Court in the cases of **Surinder Singh and Others Vs. State of Panjab and Anr.**, reported in **1997(8) SCC 488** and **Suvidya Yadav & Others**

Vs. State of Haryana and Others, reported in **(2002) 10 SCC 269** and **Sandeep Singh Vs. State of Haryana and Anr.**, reported in **(2002) 10 SCC 549**, the APPSC and the State Government were well within their right to select and appoint persons beyond the number of advertised posts.

12. Mr. N. Pada, counsel for APPSC submits that the variation clause in the advertisement dated 24-07-2013, allows the APPSC to recommend more persons than the vacancies notified in the advertisement.

13. The APPSC's counsel submits that as the State Government's requisition for filling up of the 11 additional posts of Assistant Professor (Economics) had reached the APPSC before the expiry of the last date of receipt of applications, which was fixed for 22-08-2013, the question of issuing a fresh advertisement for 11 additional vacant posts did not arise. Accordingly, the APPSC had included the 11 additional posts in the ongoing recruitment process, held in pursuant to the advertisement dated 24-07-2013.

14. Mr. T. Omo, counsel for the private respondents/writ petitioners submits that the petitioners do not have any grievance any longer and they do not mind if the appellants are allowed to continue in their appointed posts.

15. We have heard the counsels for the parties.

16. The question that arises in the present case is whether appointments can be made beyond the vacancies notified in the advertisement. The second issue that has to be decided is whether the use of the words "vacancy position and reservation of posts are subject to variation", which is reflected in the advertisement dated 24-07-2013, enables and justifies the APPSC and the State Government to select and appoint persons beyond the vacancies advertised.

17. The facts of the case in **Suvidya Yadav & Others** (supra), which is relied upon by the appellants, is that the Haryana Public Service Commission (PSC) issued an advertisement dated 16-12-1991 for filling up 18 numbers of posts of Principal. The advertisement further stated that the number of posts would be subject to variation to any extent. On 01-06-1993, before finalization of the selection process, the State Government made a fresh requisition, which was more than 18 posts. The Haryana PSC ultimately recommended 30 persons. A person, who was not selected, challenged the selection of the 30 persons by the Haryana PSC on the ground that not more than 18 persons could have been selected. The Apex Court held that the recommendations made by the Public Service Commission were in accordance with law and therefore, all the 30 persons recommended were entitled to be appointed.

21. The Apex Court in the case of **Surinder Singh and Others Vs. State of Panjab and Anr.**, reported in **1997(8) SCC 488**, however, held that para 25 of the judgment in **Prem Singh** (supra) is the statement of law. Para 25 of **Prem Singh** (supra) is reported below:-

"25 From the above discussion of the case-law it becomes clear that the selection process by way of requisition and advertisement can be started for clear vacancies and also for anticipated vacancies but not for future vacancies. If the requisition and advertisement are for a certain number of posts only the State cannot make more appointments than the number of posts advertised, even though it might have prepared a select list of more candidates. The State can deviate from the advertisement and make appointments on posts falling vacant thereafter in exceptional circumstances only or in an emergent situation and that too by taking a policy decision in that behalf. Even when filling up of more posts than advertised is challenged the court may not, while exercising its extraordinary jurisdiction, invalidate the excess

appointments and may mould the relief in such a manner as to strike a just balance between the interest of the State and the interest of persons seeking public employment. What relief should be granted in such cases would depend upon the facts and circumstances of each case."

22. In the case of **Surinder Singh and Others** (supra), the Apex Court has held that it would be an improper exercise of power to make appointments over and above those advertised. It is only in rare and exceptional circumstances and in emergent situation that this rule can be deviated from. The Apex Court further held that before any advertisement is issued, it would be incumbent upon the authorities to take into account the existing vacancies and anticipated vacancies. It further held that it is not as a matter of course that the authority can fill up more posts than advertised.

23. In the case of **Hoshiar Singh Vs. State of Haryana & Ors.** reported in **1993 (4) Supp. SCC 377**, a requisition had been sent to select candidates for appointment to 6 posts of Inspector of Police and accordingly, advertisement was issued for filling up of 6 posts of Inspector of Police. Subsequent to the written examination, but prior to the physical test and interview, a revised requisition for filling up of 8 posts of Inspector of Police was sent to the Selection Board. The Board recommended 19 names, out of which 18 persons were given appointment. The appointments were challenged and the Punjab and Haryana High Court held that the appointments made beyond 8 posts were illegal. On appeal to the Apex Court, the Apex Court held that the appointment on the additional posts on the basis of such selection and recommendation, would deprive candidates who were not eligible for appointment to the post on the last date for submission of applications mentioned in the advertisement and who became eligible for appointment thereafter, of the opportunity of being considered for appointment to the additional posts, because if the said additional posts were advertised subsequently, those who became eligible for appointment

would be entitled to apply for the same. The Apex Court thus held that the selection of 19 persons by the Board even though a requisition had been made for 8 posts only, was not legally sustainable.

24. In the present case, no documents or reasons have been given by the APPSC or the State respondents as to whether any exceptional circumstances or emergent situation has arisen so as to deviate from the settled legal proposition/rule for filling up of more posts than was advertised as required by the law laid down in **Prem Singh** (supra). The State respondents have not produced any documents that there was a policy decision made by the State Government, which was based on some rationale for filling up of vacancies over the notified advertisement. There is nothing to show whether the subsequent 11 additional vacant posts were anticipated vacancies or future vacancies.

25. As per the law laid down by the Apex Court in the decision mentioned above, the selection Board and the Government were allowed to select and appoint more persons than the number of posts advertised subject to the certain conditions. However, the Apex Court in the case of **Mukul Saikia & Others Vs State of Assam and Others**, reported in **(2009) 1 SCC 386**, has held that filling up of vacancies over the above the number of vacancies advertised would be violative of Articles 14 and 16 of the Constitution of India. The three Judges Bench of the Apex Court in the case of **Rakhi Ray & Others Vs High Court of Delhi and Others**, reported in **(2010) 2 SCC 637**, held that any appointment made beyond the number of vacancies advertised is without jurisdiction, being violative of Articles 14 and 16(1) of the Constitution of India, thus, a nullity, inexecutable and unenforceable in law. The Apex Court further held in **Rakhi Ray** (supra) that once the notified vacancies were filled up, the process of selection came to an end. The Apex Court in the case of **Kulwinder Pal Singh and Another Vs. State of Punjab and Others**, reported in **(2016) 6 SCC 532**, has also held in the same vein.

26. In **Mukul Saikia** (supra), the two judges bench has considered the case of **Suvidya Yadav & Others** (supra) and **Sandeep Singh** (supra) at paragraph 25 and at paragraph 33, the Apex Court has held as follows:-

"33. At the outset it should be noticed that the select list prepared by APSC could be used to fill the notified vacancies and not future vacancies. If the requisition and advertisement was only for 27 posts, the State cannot appoint more than the number of posts advertised, even though APSC had prepared a select list of 64 candidates. The selection list got exhausted when all the 27 posts were filled. Thereafter, the candidates below the 27 appointed candidates have no right to claim appointment to any vacancy in regard to which selection was not held. The fact that evidently and admittedly the names of the appellants appeared in the select list dated 17.07.2000 below the persons who have been appointed on merit against the said 27 vacancies, and as such they could not have been appointed in excess of the number of posts advertised as the currency of select list had expired as soon as the number of posts advertised are filled up, therefore, appointments beyond the number of posts advertised would amount to filling up future vacancies meant for direct candidates in violation of quota rules. Therefore, the appellants are not entitled to claim any relief for themselves. The question that remains for consideration is whether there is any ground for challenging the regularization of the private respondents."

27. The three Judges Bench of the Apex Court in the case of **Rakhi Ray & Others Vs High Court of Delhi and Others**, reported in **(2010) 2 SCC 637**, after considering the case of **Mukul Saikia** (supra) held that any appointment made beyond the number of vacancies advertised is without jurisdiction, being violative of Articles 14 and 16(1) of

the Constitution of India, thus, a nullity, in-executable and unenforceable in law. The Apex Court further held In **Rakhi Ray** (supra) that once the notified vacancies were filled up, the process of selection came to an end. The Apex Court, in the case of **State of Orissa and Another Vs. Rajkishore Nand and Others**, reported in **(2010) 6 SCC 777**, has held that vacancies cannot be filled up over and above the number of vacancies advertised.

28. The counsel for the appellant has submitted the fact situation in the present case is similar to the fact situation in **Suvidya Yadav & Others** (supra) and **Sandeep Singh** (supra) and that the fact situation in the case of **Mukul Saikia** (supra), **Rakhi Ray** (supra) and **Kulwinder Pal Singh** (supra) are different. He submits that as the fact situation in the present case is covered by the judgment of the Apex Court in **Suvidya Yadav & Others** (supra) and **Sandeep Singh** (supra), the said judgments would have to be applied to the case in hand.

29. In the case of **C Ronald Vs. State, UT of Andaman & Nicobar Island**, reported in **(2011) 12 SCC 428**, the Apex Court has held that the judgment of a Court should not be read as a Euclid's theorem nor as a provision in a statute. No doubt the fact situation is slightly different in the case of **Suvidya Yadav & Others** (supra) and **Sandeep Singh** (supra) on the one hand and on the other hand the facts of the case in **Mukul Saikia** (supra), **Rakhi Ray** (supra) and **Kulwinder Pal Singh** (supra). However, the Apex Court in the case of **Mukul Saikia** (supra) and **Rakhi Ray** (supra) have categorically stated that any appointment made beyond the number of vacancies advertised is without jurisdiction, being violative of Articles 14 and 16(1) of the Constitution of India, thus, a nullity, in-executable and unenforceable in law. This being the subsequent law laid down by a larger bench of the Supreme Court in **Rakhi Ray** (supra), this Court is bound to follow the subsequent judgment of the Apex Court.

30. Accordingly, the action of the APPSC and the State respondents in selecting and appointing the appellants beyond the notified vacancies in the advertisement is arbitrary and has to be set aside. In view of the above, this Court is of the view that even if requisition is made for additional vacant posts, the same cannot be filled up unless they are advertised.

31. Besides the above, a perusal of the 2nd requisition made by the State Government on 02.08.2013 for filling up of 11 additional posts of Assistant Professor (Economics) shows that the said 11 additional vacant posts were not existing vacancies, but posts that were likely to be created soon. The 1st paragraph of the requisition letter dated 02.08.2013 is reproduced herein below:-

"In continuation of Govt. letter even number dated 17th July, 2013, I am directed to enclose herewith a fresh proposal in the prescribed format for requisition for recruitment of Assistant Professor for the Govt. colleges of Arunachal Pradesh against vacancy likely to be created soon"

32. The above fact clearly goes to show that the judgments cited by the appellants' counsel, i.e., **Surinder Singh and Others** (supra), **Suvidya Yadav & Others** (supra) and **Sandeep Singh** (supra) are not applicable to the appellants case as the alleged vacancies have to be created, i.e they are not existing vacancies, but future vacancies. Accordingly, we are of the view that the use of the word "vacancy position and reservation of posts were subject to variation" in the advertisement dated 24.07.2013 does not enable or justify the APPSC or the State Government to select and appoint persons beyond the number of vacancies advertised.

33. In view of the fact that the 11 additional posts of Assistant Professor (Economics) were not existing vacancies and in view of the fact there were no such vacant posts as on the date of the requisition, this Court finds the action of the APPSC and the State Government in selecting and appointing the appellants to the said posts of Assistant Professor (Economics) as arbitrary and in violation of Article 14 and 16(1) of the Constitution of India. However, the appointment of the appellants to the 11 vacant posts reflected in the requisition letter dated 02.08.2013 goes to show that the said posts had been created vacant on a date subsequent thereto. These were not existing vacancies. In the impugned judgment and order dated 18.11.2014 passed in WP(C) No. 433(AP)/2013 and WP(C) No. 197(AP)/2014, the learned Single Judge, while directing the respondents to issue fresh advertisement for making recruitment to the subsequent 11 vacant posts of Assistant Professor (Economics), in terms of the requisition letter dated 02-08-2013, had not set aside the appointment orders/letters of the appellants. The direction passed by the learned Single Judge to issue fresh advertisement for making recruitment to the subsequent requisition for filling up of 11 vacant posts to be created implies the setting aside of the appointments of the appellants as Assistant professor (Economics). However, as there has been no clear direction passed by the learned Single Judge, we hereby direct that the appointments of the appellants are deemed to be a nullity and accordingly their appointments are hereby set aside. However, the appellants can participate in the fresh advertisement to be made by the APPSC for the 11 vacant posts of Assistant Professor (Economics) as and when they are advertised.

34. The writ appeals accordingly are dismissed.

JUDGE

JUDGE