

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE
PRESENT



THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN
WRIT PETITION NO: 6933 OF 2025

Between:

Varri Satya Venkata Sanyasi Rao Naidu, S/o late Sri Jogi Naidu, Aged 63 years, Retired as Motor Vehicles Inspector, Transport Department, R/o Flat No. 103, 1st Floor, Simhagiri Luxury Park Apartments, Near Durgama Temple, Sai Nagar, 11, Market Road, Morampudi, Rajahmundry - 533 101.

...PETITIONER

AND

1. The State of Andhra Pradesh, Rep by its Principal Secretary, TR and B Department, A.P. Secretariat Velagapudi, Guntur District.
2. The Transport Commissioner, Andhra Pradesh, NTR Administrative Building, PNBS, Vijayawada.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue Writ Order or Direction more particularly one in the nature of Writ of Mandamus declare the impugned Charge Memo issued in G.O.Ms.No.62, Transport, Roads and Buildings (Vig.Tr) Department dated 15-12-2021 read with G.O.Rt.No. 391, TR and B (Vig.Tr) Department dated 30-12-2021 issued by the respondents for the incident related to 2015 which is beyond (4) years contrary to Rule 9(2)(b)(ii) of A.P Revised Pension Rules 1980, as illegal. arbitrary, contrary to law declared by the Honble Apex Court in State of U.P and Another Vs Shri Krishna Pandey (1996) 9 SCC 395 and quash the same, in terms of the similar orders passed by a Division in W.P.No. 25587/2018 and Batch, dated 15-11-2018 and W.A.No.

453 of 2021 and Batch dated 16-9-2021, consequently direct the respondents to release all retirement benefits i.e., Full pension. Retirement Gratuity, Encashment of Earned Leave and Commutation of Pension together with interest @ 9% p.a. for delayed payments, in terms of the orders passed in W.A.No.383 of 2022, dated 12-7-2022.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in impugned charge memo G.O.Ms.No.62, Transport, Roads and Buildings (Vig.Tr) Department dated 15-12-2021 read with G.O.Rt.No. 391, TR&B (Vig.Tr) Department dated 30-12-2021 along with Show-cause notice issued in Memo.No.1489966/2021-VIG-TR-A1, transport Roads and Buildings (Vig.Tr) Dept. dt. 11-11-2024, issued by the respondent, in contrary to Rule 9(2)(b)(ii) of A.P Revised Pension Rules 1980 pending disposal of the above writ petition.

Counsel for the Petitioner: M/s. SRI BUGULU SREETEJA

Counsel for the Respondent Nos.1 & 2: GP FOR SERVICES II

The Court made the following: ORDER

APHC010126592025



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3506]

THURSDAY ,THE TWENTIETH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

WRIT PETITION NO: 6933/2025

Between:

Varri Satya Venkata Sanyasi Rao Naidu

...PETITIONER

AND

The State of AP and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.BUGULU SREETEJA

Counsel for the Respondent(S):

1.GP FOR SERVICES II

The Court made the following order:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief/s:-

“...to issue Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declare the impugned Charge Memo issued in G.O.Ms.No.62, Transport, Roads and Buildings (Vig.Tr) Department dated 15-12-2021 read with G.O.Rt.No.391, TR&B (Vig.Tr) Department dated 30-12-2021 issued by the respondents for the incident related to 2015 which is beyond (4) years contrary to Rule 9(2)(b)(ii) of A.P Revised Pension Rules 1980, as illegal, arbitrary, contrary to law declared by the Hon’ble Apex Court in State of U.P and Another Vs Shri Krishna Pandey (1996) 9 SCC 395 and quash the same, in terms of the similar orders passed by a Division in W.P.No.25587/2018 and Batch, dated 15-11-2018 and W.A.No.453 of 2021 and Batch dated 16-9-2021, consequently direct the respondents to release all retirement benefits i.e., Full pension, Retirement Gratuity, Encashment of Earned Leave and Commutation of Pension together with interest @ 9% p.a. for delayed payments, in terms of the orders passed in W.A.No.383 of 2022, dated 12-7-2022 and pass such other order or orders....”

2. With the consent of both the learned counsel for the petitioner and learned Government Pleader for Services-II, the matter is being disposed of at the admission stage.

3. While the petitioner was working as Assistant Motor Vehicles Inspector, based on surprise check conducted by ACB, report dated 11.09.2017 was made alleging certain irregularities. In pursuant to the same, the Government have accorded sanction under Rule(9)(2)(b)(ii) of the Andhra Pradesh Revised Pension Rules,

1980, (hereinafter for short "the Rules") to initiate departmental proceedings against the petitioner *vide* G.O.Ms.No.62, TR&B (Tr.Vig) Department dated 15.12.2021 and G.O.Ms.No.62, TR&B (Tr.Vig) Department dated 15.12.2021 in exercising powers conferred under Rule 24 (2) and (1) of the Andhra Pradesh Civil Services (CC&A) Rules, 1991. Basing on the aforesaid orders, charge memo was issued to the petitioner *vide* G.O.Rt.No.391, TR&B (Vig.TR) Department dated 30.12.2021, which was served on the petitioner by an endorsement dated 19.03.2022. The petitioner has submitted explanation to the same, *inter alia* contending that the incident has happened on the intervening night of 28/29.05.2015 and that the petitioner has attained superannuation on 30.06.2021. The charge being communicated to the petitioner through an endorsement dated 19.03.2022, which is being beyond four years from the date of incident, In view of Rule(9)(2)(b)(ii) of the Rules, the same is not sustainable. The petitioner also submitted representation in January, 2024, in this regard. However, the Government have once again issued show cause notice dated 11.11.2024 proposing punishment of 5 % cut in pension for a period of two (02) years.

4. Learned counsel for the petitioner submits that initiation of proceedings after the petitioner's retirement, for an incident before beyond four years, is unsustainable in view of Rule(9)(2)(b)(ii) of the

Rules. The said issue is no more *res integra* and the same has been decided in W.P.No.24611 of 2024.

5. Learned Assistant Government Pleader appearing for respondents does not refute the same.

6. The coordinate Bench of this Court has considered the aforesaid Rule position and by referring to the judgment rendered by the Hon'ble Apex Court in ***State of U.P and another vs. Shri Krishan Pandey***¹ while dealing with a case of a Government Servant of retirement from service observes as follows:

"It would thus be seen that proceedings are required to be instituted against a delinquent officer before retirement. There is no specific provision allowing the officer to continue in service nor any order passed to allow him to continue on re-employment till the enquiry is completed, without allowing him to retire from service. Equally, there is no provision that the proceedings be initiated as disciplinary measure and the action initiated earlier would remain unabated after retirement. If Rule 351- A is to be operative in respect of pending proceedings, by necessary implication, prior sanction of the Governor to continue the proceedings against him is required. On the other hand, the rule also would indicate that if the officer caused pecuniary loss or committed embezzlement etc. due to misconduct or negligence or dereliction of duty, then proceedings should also be instituted after retirement against the officer as expeditiously as possible. But the events of misconduct etc. which may have resulted in the loss to the Government or embezzlement, i.e., the cause for the institution of proceedings, should not have taken place more than four years before the date of institution of proceedings. In other words, the departmental proceedings must be instituted before lapse of four years from the date on which the event of misconduct etc. had taken place. Admittedly, in this case the officer had retired on March 31, 1987 and the proceedings were initiated on April 21, 1991. Obviously, the event of embezzlement which caused pecuniary loss to the State took

¹ (1996) 9 SCC 395

place prior to four years from the date of his retirement. Under these circumstances, the State had disabled itself by their deliberate omissions to take appropriate action against the respondent and allowed the officer to escape from the provisions of Rule 351-A of the Rules. This order does not preclude proceeding with the investigation into the offence and taking action thereon."

7. On perusal of the Rule, it would manifest that if the departmental proceedings have not been instituted while the Government Servant was in service, whether before his reemployment or during his retirement, the same shall not be instituted in respect of an event which took place before four years in such institution.

8. It is also pertinent to mention that as per Rule 9(6)(a) of Rules, the departmental proceedings deemed to be instituted on the date on which the statement of charges was issued to the Government servant or the pensioner. The Rule 9(6)(a) of Rules, reads as follows:

6) For the purpose of Rules,

(a) Departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner or if the Government servant has been placed under suspension from the earlier date, on such date.

9. Thus, as seen from the above extracted Rule, the departmental proceedings are deemed to be instituted from the date on which statement of charges is issued. The case at hand, the charge memo dated 30.12.2021 beyond four years.

10. In view of the above, as the articles of charges clearly shows that the incident has happened on 28.05.2015, and that the petitioner retired from the service on 30.06.2021. The impugned charge memo being issued on 30.12.2021, as communicated on 19.03.2022, is clearly beyond four (04) years. Thus, initiation of disciplinary proceedings clearly violates Rule(9)(2)(b)(ii) of the Rules and hence, the proceedings are liable to be set aside.

11. Accordingly, the Writ Petition stands allowed and the charge memo *vide* G.O.Rt.No.391, TR & B(Vig.TR) Dept. dated 30.12.2021, is hereby set aside. It is needless to say, since the charge memo has been set aside, and if there are no other charges or inquiry pending against the petitioner, respondents are directed to release all retirement benefits to the petitioner, in accordance with law. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

Sd/- M SRINIVAS
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Principal Secretary, TR and B Department, State of Andhra Pradesh, A.P. Secretariat, Velagapudi, Guntur District.
2. The Transport Commissioner, Andhra Pradesh, NTR Administrative Building, PNBS, Vijayawada.
3. One CC to Sri Bugulu Sreeteja, Advocate [OPUC]
4. Two CCs to GP for Services- II, High Court of Andhra Pradesh. [OUT]
5. Three CD Copies.

ssb

HIGH COURT

DATED:20/03/2025

ORDER

WP.No.6933 of 2025



ALLOWING THE W.P. WITHOUT COSTS