

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.9299 of 2004

Between:

K. Janakiramaiah

PETITIONER

AND

1. The Mandal Revenue Officer, Kallur Mandal, Kurnool District, and others.

RESPONDENTS

ORDER:

Heard learned counsel for the petitioner, the learned Government Pleader for Revenue for respondents 1 to 3 and learned Government Pleader for Home for the 4th respondent.

The petitioner was appointed as Junior Assistant in the year 1956.

Subsequently, he was promoted as Senior Assistant in the year 1961. While he was working as Senior Assistant/cashier he was suspended from service on 16.03.1984 alleging that he has misappropriated certain funds. Accordingly, criminal proceedings were initiated in Crime No. 178/86 for the offences punishable under Sections 408, 471, 477-A of IPC on the file of the Kurnool II Town Police Station and a charge sheet was also filed against the petitioner in the Court of the Additional Judicial First Class Magistrate at Kurnool vide C.C.No.38 of 1988 by the CBCID alleging involvement of misappropriation of an amount of Rs.1,12,272-65 ps. Subsequently, the Government withdrew the said criminal proceedings as well as the departmental action and issued instructions in Memo No.9812/Ptg.A2/99, dated 03.01.2001 to initiate action against the petitioner for recovery of the loss caused to the Government under Revenue Recovery Act. Accordingly, the Government issued G.O.Ms.No.364 Home Department Dated 9.11.1995 dropping the departmental action against the petitioner and the Mandal Revenue Officer, Kallur Mandal, who is the competent authority, was informed of the Government instructions to the effect that recovery of the misappropriated amount of Rs.1,12,272-65 ps. with interest. The petitioner retired from service on 30.06.1996 after attaining the age of superannuation. Thereafter, the 1st respondent issued a demand in Form-I to the petitioner, which is under challenge in this writ petition.

A counter affidavit is filed by the respondents stating that as per G.O.Rt.No.1097, Finance & Planning (FW-Pen.I) Department dated 22.06.2000, the Government is entitled to take action against a retired official, who commits irregularities, on three counts, viz., criminal prosecution, disciplinary action and recovery of the loss caused to Government exchequer. In the case on hand, though the criminal prosecution and departmental proceedings were dropped, the Government is entitled to recover the loss caused to the Government exchequer, and accordingly, proceedings were issued for recovery of the amount and the notice issued by the 1st respondent is not illegal.

In view of the averments made by the respondents in the counter affidavit, this Court is of the opinion that the notice issued by the 1st respondent consequent to the action of the department in trying to recover the misappropriated amount is not illegal. No ground is made out challenging the demand notice issued by the 1st respondent. Therefore, the writ petition is liable to be dismissed and is accordingly

dismissed. No order as to costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

A. RAMALINGESWARA RAO, J.

27th March, 2015

Js.