APHC010336322019

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3333]**
(Special Original Jurisdiction)

MONDAY, THE 26th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 15946/2019

Between:

1. B.NAGESWARA RAO, S/O LATE VENKATA RAJU, AGED ABOUT 63 YEARS, OCC RETIRED DEPUTY TAHSILDAR R/O VISHNU SAI RESIDENCY, 4 TEMPLE CENTRE BESIDE BHARAT GAS PATTEBADA, ELURU, W.G.DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS SPECIAL CHIEF SECRETARY, REVENUE DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT.
2. THE CHIEF COMMISSIONER OF LAND ADMINISTRATION, VIJAYAWADA, KRISHNA DISTRICT.
3. THE COLLECTOR AND DISTRICT MAGISTRATE, WEST GODAVARI DISTRICT,
4. THE ADMINISTRATIVE OFFICER, 0/0 PROJECT DIRECTOR, D,W.M.A., WEST GODAVARI DISTRICT AT ELURU.

...RESPONDENT(S):

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 toto issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, to declare the action of the 1st respondent in issuing G.O.Ms.No. 358 Revenue (Vigilance-III) Department dt. 19-8-2019, wherein imposed the penalty of stoppage of 100 percent pension and gratuity in full permanently against the petitioner, is illegal, arbitrary,

unjust and contrary to Rules and consequently set aside the same, and to pass

IA NO: 1 OF 2019

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 suspend the operation of the impugned order in G.O.Ms.No. 358 Revenue (Vigilance.III) Department dt. 19.8.2019, pending disposal of the main Writ Petition, and to pass

Counsel for the Petitioner:

1. ELURU SESHA MAHESH BABU

Counsel for the Respondent(S):

1. GP FOR REVENUE (AP)
2. GP FOR SERVICES I

The Court made the following:

ORDER:

The present Writ Petition came to be filed under Article 226 of the Constitution of India seeking the following relief:-

> *"…to issue an appropriate Writ Order or Direction more particularly one in the nature of Writ of Mandamus to declare the action of the 1st respondent in issuing G.O.Ms.No.358 Revenue (Vigilance-III) Department dt.19.8.2019, wherein imposed the penalty of stoppage of 100% pension and gratuity in full permanently against the petitioner, is illegal, arbitrary, unjust and contrary to Rules and consequently set aside the same…."*

2. The brief facts of the case are as follows:

a) The petitioner was initially appointed as a Junior Assistant through the Andhra Pradesh Public Service Commission (APPSC) in June, 1984. He was promoted as Senior Assistant in the year 1992 and subsequently as Deputy Tahsildar in the year 2007. He retired from service on attaining the age of superannuation on 30.06.2017.

b) The grievance of the petitioner is that there were some disputes between the petitioner and one Jangam Lakshmi Satyanarayana, who was in the habit of selling subsidy rice received by the dealer in the black market, and that he was caught by the petitioner red-handedly while transporting subsidy rice in his own Tata ACE Van bearing Registration No. AP-37-TV-4236. Thereafter, a case was also registered before the Court of the Special Judicial First Class Magistrate, Eluru. Subsequently, the stocks were seized by the Tahsildar, Pedapadu, on 30.03.2008, and a 6-A case was also booked against the said Jangam Lakshmi Satyanarayana. Due to the above incident,

the said Jangam Lakshmi Satyanarayana developed a grudge against the petitioner and falsely implicated him before the ACB authorities by making a complaint on 28.11.2008, bearing the signature of V.Balaswamy, who is the husband of a Fair Price Shop dealer, Smt.Velpuri Mariyamma, alleging that the petitioner had demanded and accepted a bribe of Rs.10,000/- from the complainant for showing official favour in permitting the continued sale of commodities to ration cardholders at Satrampadu, Eluru. Accordingly, disciplinary proceedings were initiated against the petitioner.

c) The Government, vide Memo No.65609/Vig.VI(2)/08-3, dated 14.12.2009, decided to proceed with a departmental inquiry instead of prosecution and requested the Director General, ACB, to furnish the draft articles of charge to the District Collector for initiating departmental action. The Government also directed the District Collector, West Godavari District, to initiate departmental action as per the Rules. Accordingly, the 3rd respondent, vide proceedings dated 01.04.2011, framed two charges against the petitioner, to which the petitioner submitted his explanation. Thereafter, not being satisfied with the said explanation, the District Collector, West Godavari District, appointed the 4th respondent as the Inquiry Officer to conduct an inquiry into the charges framed against the petitioner. Accordingly, the 4th respondent submitted his report on 16.01.2017. Thereafter, the 1st respondent issued a show-cause notice dated 13.03.2018 to the petitioner, proposing to impose the penalty of a 100% cut in pension and gratuity permanently. The petitioner submitted his explanation thereto. Not being satisfied with the

explanation submitted by the petitioner, the Government issued the impugned G.O.Ms.No.358, dated 19.08.2019, imposing the punishment of stoppage of 100% pension and gratuity permanently under Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980. Aggrieved thereby, the present Writ Petition has been filed on the ground that the explanation submitted by the petitioner was not considered, wherein the petitioner specifically alleged that, due to the grudges between the petitioner and one Jangam Lakshmi Satyanarayana, the petitioner was falsely implicated in the ACB case.

3. Respondent No.1 has filed a counter-affidavit, stating as follows:

a) After careful examination of the proposal submitted by the District Collector, West Godavari, the Government observed that the charge of corruption against the petitioner was held proved. As per G.O.Ms.No.2, General Administration (Ser.C) Department, dated 04.01.1999, read with G.O.Ms.No.458, General Administration Department, dated 22.09.2009:

> *"In all proved cases of misappropriation, bribery, bigamy, corruption, moral turpitude, forgery and outraging the modesty of women, the penalty of dismissal from service shall be imposed."*

b) In pursuance of the above Government Orders, and after careful examination of the matter, the Government provisionally decided to impose the penalty of stoppage of 100% of the monthly pension and gratuity permanently against Sri B. Nageswara Rao, Deputy Tahsildar (Retd.), under Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980. Accordingly, a show-cause notice was issued to him vide Government Memo dated

13.03.2018, calling upon him to explain why the proposed penalty should not be imposed. In response, the petitioner submitted his explanation to the show-cause notice and requested the Government to drop the proposed punishment. After careful examination of the explanation submitted by the petitioner, the Government provisionally decided to impose the penalty of stoppage of 100% of the monthly pension and gratuity permanently against him and accordingly requested the APPSC to furnish its concurrence in the matter. The APPSC, vide its letter dated 26.06.2019, concurred with the proposal of the Government.

c) After careful examination of the matter and following the due procedure, the Government decided to confirm its provisional decision to impose the penalty of stoppage of 100% of the monthly pension and gratuity permanently against the petitioner. In exercise of the powers conferred under Sub-Rule (1) of Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980, read with the instructions issued in G.O.Ms.No.2, General Administration (Ser.C) Department, dated 04.01.1999, the Government imposed the penalty of stoppage of 100% of the monthly pension and gratuity permanently against the petitioner with immediate effect, vide G.O.Ms.No.358, Revenue (Vigilance-III) Department, dated 19.08.2019, duly following the prescribed procedure.

4. Heard learned counsel for the petitioner and the learned counsel appearing for the respondents.

5. It is an admitted fact that the petitioner was implicated in an ACB case in the year 2008. Thereafter, the Government, vide Memo dated 14.12.2009, decided to proceed with a departmental inquiry instead of prosecution and requested the Director General, ACB, to furnish the draft articles of charge to the District Collector for initiating departmental action. The Government also directed the District Collector, West Godavari District, to initiate departmental action as per the Rules. Accordingly, the 3rd respondent, on 01.04.2011, duly framed the following two charges against the petitioner:

> *"1)) That the Government servant did not submit his annual property returns during his entire service.*
> *2) The individual while working as S.D.T.(C.S.) O/o Tahsildar, Pedapadu (M) was trapped by the A.C.B. on 28.11.2008.*

6. The petitioner submitted his explanation to the aforesaid charges. As the explanation was not found satisfactory, the District Collector, West Godavari District, appointed the 4th respondent as the Inquiry Officer to conduct an inquiry into the charges framed against the petitioner in the year 2011. However, it appears that the 4th respondent submitted the inquiry report on 16.01.2017, i.e., after a lapse of nearly six years. Subsequently, the 1st respondent issued a show-cause notice dated 13.03.2018 to the petitioner, proposing to impose the penalty of withholding 100% of his pension and gratuity permanently. In response thereto, the petitioner once again submitted his explanation, stating that he had been falsely implicated in the above case and that one Jangam Lakshmi Satyanarayana, who was not a Fair Price Shop

dealer, had falsely implicated him in the ACB trap case due to the previous disputes between them.

7. The petitioner further stated in his explanation that neither the ACB officials nor the Inquiry Officer had examined the aforesaid circumstances and that they had erroneously concluded that he had demanded and accepted illegal gratification of Rs.10,000/-. While the departmental proceedings were pending, the petitioner retired from service on 30.06.2017. Thereafter, the Government, vide the impugned G.O.Ms.No.358, dated 19.08.2019, imposed the punishment of withholding 100% of the petitioner's pension and gratuity permanently under Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980.

8. At this stage, this Court feels it appropriate to extract Sub-Rule (1) of Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980, which reads as follows:

> ***9. Right of Government to withhold or withdraw pension:-***
> *(1) The Government reserves to themselves the right of withholding a pension or gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specific period and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused, to the Government and to the local authority if, in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement*
>
> *Provided that the Andhra Pradesh Public Service Commission shall be consulted before any final orders are passed. ["However, consultation with Andhra Pradesh Public Service Commission is not*

necessary, when the pensioner is found guilty in any judicial proceedings".]

Provided further that a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the limit specified in sub-rule (5) of Rule 45]

Provided also that the penalty of withholding of entire pension or gratuity or both may be imposed against the retired Government servant upon being found guilty or upon conviction in a court of law for the offences of grave charges namely proved cases of misappropriation, bribery, bigamy, corruption moral turpitude, forgery, outraging the modesty of women and misconduct."

9. A reading of the aforesaid Rule makes it clear that the State Government reserves the right to withhold or withdraw the pension or gratuity, or both, either in full or in part, in cases where a pensioner is found guilty of grave misconduct or negligence in any departmental or judicial proceedings relating to the period of his service. The Rule further stipulates that the Andhra Pradesh Public Service Commission shall be consulted before passing final orders. However, such consultation is not necessary where the pensioner is found guilty in any judicial proceedings.

10. In the present case, admittedly, the petitioner was not found guilty in any judicial proceedings, and the findings against him arose out of the departmental proceedings initiated by the respondent authorities. The petitioner also specifically raised a grievance that his explanation, particularly with regard to the previous disputes between him and Jangam Lakshmi Satyanarayana and the alleged false implication in the ACB case, was not

properly considered. Further, in the present case, the petitioner was proceeded against departmentally and was not found guilty by any Court. Therefore, consultation with the APPSC, as required under Rule 9(1), is necessary, and the exception provided under the Rule cannot be applied to the petitioner.

11. In view of the forgoing circumstances, this Court is of the opinion that the impugned G.O.Ms.No.358, Revenue (Vigilance-III) Department, dated 19.08.2019 is liable to be set aside.

12. Accordingly, the Writ Petition is allowed, setting aside the impugned G.O.Ms.No.358, Revenue (Vigilance-III) Department, dated 19.08.2019, and the matter is remitted to the respondent authorities for reconsideration in accordance with law, after taking into consideration the explanation submitted by the petitioner and the relevant provisions of Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980. There shall be no order as to costs.

Consequently, all pending miscellaneous applications, if any, shall stand closed.

JUSTICE V.SUJATHA

Dated: 26.10.2026
KGR/GCD