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APHC010365172021

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3330]
(Special Original Jurisdiction)

TUESDAY, THE 3rd DAY OF NOVEMBER 2026

PRESENT
THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.22503 of 2021

Between:

1. MURARI SANKARAPPA,, S/O..LATE BASAPPA, AGED ABOUT-69 YEARS, OCC. RETDTAHASILDAR(SUPERINTENDENT), 0/O DISTRICT COLLECTOR, KURNOOL, KURNOOL DISTRICT. R/O D.NO.40/253/306, 3RD FLOOR, PAWAN RESIDENCY, PARK ROAD, KURNOOL.
2. T.VENKATA RAO,, S/O. ADAIAH, AGED ABOUT- 69 YEARS, OCC. RETDTAHASILDAR, R/O H.NO.5-580,PIDUGURANGAIAH STREET, ADMAKU, NELLORE DISTRICT

...PETITIONER(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS SPECIAL CHIEF SECRETARY TO GOVERNMENT, REVENUE (VEG-III) DEPARTMENT, SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATHI.
2. CHIEF COMMISSIONER OF LAND ADMINISTRATION, AP AT GOLLAPUDI, VIJAYAWADA.
3. THE DISTRICT COLLECTOR, KURNOOL, KURNOOL DISTRICT.
4. STATE OF AP, REP. BY ITS PRINCIPLE SECRETARY TO GOVERNMENT, INDUSTRIES AND COMMERCE (VIGILANCE) DEPARTMENT, SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVTHI.
5. THE DIRECTOR OF MINES AND GEOLOGY, 5TH FLOOR, ANJANEYA TOWERS, IBRAHIMPATNAM, VIJAYAWADA.
6. THE ASSISTANT DIRECTOR OF MINES AND GEOLOGY, BANAGANAPALLI, KURNOOL DISTRICT.

...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 to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Memo.No.594391VIG. III(2)/ 2006,dt, 19-11-2018 as illegal, improper, unjust and arbitrary and contrary to law and set-aside the same and further declare that the respondents are not entitle to recover any amounts relating to the impugned Memo dt, 19-11-2018 basing on the ex-parte vigilance report dt, 19-12-2006.

Counsel for the Petitioner(S):

1. G SEENA KUMAR

Counsel for the Respondent(S):

1. GP FOR SERVICES I
2. .

The Court made the following:

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.22503 of 2021

ORDER:

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

> ".…….to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Memo No.59439/VIG.III(2)/2006 dated 19.11.2018 as illegal, improper, unjust and arbitrary and contrary to law and set-aside the same and further declare that the respondents are not entitle to recover any amounts relating to the impugned Memo dt.19.11.2018 basing on the ex-parte vigilance report dt.19.12.2006 and pass such other order or orders….."

2. The Vigilance Department has conducted a discrete enquiry. In the said enquiry, the unlawful activity has been uncovered and legal infractions have been brought into light. In the enquiry report conducted by the Chief Commissioner of Land Administration by Letter No.VS.II(I)/ 112/2007 dated 26.06.2015 reported that segniorage fee of Rs.18,76,378/- is the loss occasioned due to illegal quarrying and it has been apportioned between the two petitioners to an extent of Rs.9,38,189/- each. Thereafter, the Principal Secretary to Revenue

(Vig.III.2) Department issued the memo dated 21.07.2015, directing recovery of the said amount from the petitioners.

3. Assailing the said memo dated 21.07.2015, the 1st petitioner herein filed O.A.No.5999 of 2015 and the 2nd petitioner filed O.A.No.6000 of 2015 on the file of the Andhra Pradesh Administrative Tribunal, on the grounds that the ordering recovery from the petitioners under the Revenue Recovery Act is unknown to law and no opportunity was given to the petitioners before passing the memo dated 21.07.2015. In any event, the department cannot initiate any Departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment and shall not be in respect of any event which took place more than four years before such institution invoking rule 9 (2) (b) of the A.P. Revised Pension Rules 1980 (for short, hereafter referred to as 'Rules 1980'). It is stated that the alleged incident took place in the year 2002 to 2005 and the writ petitioners had retired from service in the year 2009 and 2011 and the enquiry report conducted by the Chief Commissioner of Land Administration by Letter No.VS.II(I)/ 112/2007 dated 26.06.2015 is barred by limitation. And the learned counsel relied

on the Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980, which reads thus:

> **Rule 9(2)(b) of the Andhra Pradesh Revised Pension Rules, 1980, which reads as follows**:
> "(b) The Departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment;
> (i) shall not be instituted save with the sanction of the Government.
> (ii) shall not be in respect of any event which took place more than four years before such institution; and
> (iii) shall be conducted by such authority and in such place as the State Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service."

4. The Andhra Pradesh Administrative Tribunal has allowed the above referred two O.As., vide common order dated 11.07.2018, and set aside the memo No.59439/VIG.III(2)/2006-1 dated 21.07.2015, of the Principal Secretary of Revenue, ordered recovery of the amount from the petitioners. While setting aside the said memo, the Tribunal has granted liberty to proceed against the petitioners on the said subject against the petitioners after giving notice/show cause notice to them

giving all the particulars and after obtaining explanations, if any, from the petitioners, with an observation that the gratuity payable to the 1st petitioner herein in O.A.No.5999 of 2015 shall be detained by the Government and the said order has become final.

5. Accordingly, the 1st respondent has issued the impugned Memo No.59439/VIG.III(2)/2006 dated 19.11.2018, directing the petitioners to show cause as to why the amount of Rs.9,38,189/- from each cannot be recovered from the pension/pensionary benefits and submit the explanation within fifteen days from the date of receipt of the memo, failing which, it will be construed that they have no explanation to offer and further action will be taken based on the material available with the Government.

6. The said show cause notice i.e., impugned Memo No.59439/VIG.III(2)/2006 dated 19.11.2018 is assailed in the present Writ Petition on the following grounds:

7. Before dealing with the judgement, when this Court posed a question to the learned counsel for the petitioners, the counsel replied that this Court cannot pose question to the counsel, but only to the respondents' counsel. Therefore, although it makes the judgment bulky, the attitude of the petitioners compelled this Court to extract the entire

written arguments verbatim and the same is reproduced herein as follows:

{[***The impugned Show Cause Notice bearing Memo No. 59439/VIG.III(2)/2006 dated:*** 19-11-2018 issued by the Respondent No. 1 is wholly without jurisdiction, unconstitutional, and vitiated by an unexplained, inordinate, and fatal delay of over twelve years. The allegations levelled against the Petitioners are relates to the period between 2002 and 2005 during their respective postings as Mandal Revenue Officer / Tahasildar at Kolimigundla. The Respondent authorities were in possession of the preliminary Vigilance Report No. 150(367/V&E/NRI/2006) as far back as dt: 19-12-2006, yet chose to remain dormant until the issuance of the arbitrary recovery Memo dated; 21-07-2015, which was subsequently quashed by the Andhra Pradesh Administrative Tribunal in O.A. No. 5999 of 2015 and O.A. No. 6000 of 2015 on 11-07-2018. The issuance of the impugned Show Cause Notice dt; 19-11-2018, attempting to resurrect stale allegations after twelve years, severely prejudices the defence of the Petitioners, who are now senior citizens aged about 69 years, and constitutes an impermissible abuse of executive authority.

The principles governing the fatal effect of abnormal and unexplained delay in initiating disciplinary or recovery proceedings against government servants are well settled by the Hon'ble Supreme Court of India. In State of A.P. v. N. Radhakishan, (1998) 4 SCC 154, the Hon'ble Supreme Court held that unexplained delay in concluding disciplinary proceedings causes serious prejudice to the delinquent employee and violates the tenets of justice, warranting the quashing of

such belated proceedings. Similarly, in P.V. Mahadevan v. MD, T.N. Housing Board, (2005) 6 SCC 636, the Hon'ble Supreme Court quashed a charge memo issued after a delay of ten years, holding that allowing the disciplinary authority to proceed with departmental proceedings after such a protracted delay would cause severe mental agony and prejudice to the employee without any justification. In the present case, the delay of twelve years between the Vigilance Report dated 19 December 2006 and the impugned Show Cause Notice dated 19 November 2018 is completely unexplained, rendering the impugned proceedings unsustainable on the ground of delay alone.

The impugned proceedings are directly hit by and contrary to the executive policy mandates of the Government itself. Vide G.O.Ms.No. 679, GA(Services-C) Department, dated 01-11-2008, the Government fixed strict outer time limits mandating that disciplinary proceedings against public servants must be concluded within three months in simple matters and within six months in complicated matters. This mandatory directive was affirmed and enforced by the Division Bench of the High Court in 2010 (4) ALT 374 (DB). The Respondents sat over the matter for more than a decade without even framing a regular charge sheet under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 during the entire active service tenure of the Petitioner No. 2 (who retired on 30-06-2009) or Petitioner No. 1 (who retired on 30-09-2011), completely flouting the statutory timeline mandated by G.O.Ms. No. 679.

The purported exercise of power under Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980 is ultra vires, incompetent, and

an impermissible short-circuiting of the mandatory condition precedent established by law. Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980 empowers the government to withhold or withdraw pension or order recovery of pecuniary loss caused to the government only if the pensioner is found guilty of "grave misconduct or negligence" in a duly constituted departmental or judicial proceeding. In the present case, no departmental inquiry whatsoever was initiated or conducted against either of the Petitioners while they were in service under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, nor was any formal inquiry instituted after their retirement in accordance with the prescribed procedure.

In D.V. Kapoor v. Union of India, (1990) 4 SCC 314, the Hon'bleSupreme Court held that the condition precedent for the exercise of jurisdiction to withhold or reduce pension or gratuity is a clear and unequivocal finding recorded in a regular departmental inquiry or judicial proceeding that the delinquent officer committed grave misconduct or negligence in the discharge of public duty. The Hon'ble Supreme Court observed:

(a) Right to pension and gratuity is a valuable statutory right earned through long and efficient service, not a bounty of the State, and constitutes economic security in the evening of life protected under Article 41 of the Constitution of India;

(b) In the absence of a proved finding of grave misconduct in an inquiry conducted in accordance with rules governing dismissal, the authority possesses no jurisdiction to withhold pension or gratuity or to order recovery; and

(c) Withholding statutory gratuity in the absence of explicit statutory authority and without notice is entirely devoid of jurisdiction. In the case of Petitioner No. 1, his gratuity amounting to Rs. 8,00,000/- has been unlawfully retained by the Respondents without any finding of grave misconduct recorded in any departmental inquiry, in patent violation of the dictum in D. V. Kapoor.

The initiation of proceedings in respect of events that occurred between 2002 and 2005 is also wholly barred by analogy to the fundamental jurisdictional limitations governing post-retirement action. As authoritatively ruled by the Hon'ble Supreme Court in State of Bihar v. Mohd. Idris Ansari, 1995 Supp (3) SCC 56, while interpreting in pari materia pension provisions (proviso to Rule 43(b) and Rule 139 of the Bihar Pension Rules, 1950), no post-retirement proceeding can be instituted against a retired employee in respect of an event or misconduct that occurred more than four years prior to the institution of such proceedings. The Hon'ble Supreme Court affirmed that a notice issued beyond four years from the date of the alleged misconduct is still-born, ineffective from its inception, and cannot be salvaged or relied upon to sustain recovery. In the case at hand, the alleged events occurred during 2002-2005, and the preliminary report was dated: 19-12-2006; therefore, by 19-11-2018, the subject matter was old by thirteen to sixteen years, rendering the impugned show cause notice entirely incompetent, ab initio void, and still-born.

That liberty that was granted by the Hon'ble tribunal to proceed by issuing show cause or notice is subject to rules and limitation and the liberty given can't be taken and it is always if law permits only.

The fundamental premise on which the recovery is sought-namely, that the Petitioners, being Revenue Officers (Mandal Revenue Officers /Tahasildars), failed to collect seigniorage fees-is entirely misconceived, baseless, and opposed to the statutory framework governing minor minerals. Under the Andhra Pradesh Minor Mineral Concession Rules, 1966, the sole, limited role assigned to the Tahasildar is to submit a verification report regarding the availability and classification of the of Mines & Geology. The administrative and statutory function of the subject land and to forward a No Objection Certificate to the Department Tahasildar stands completely discharged and terminates upon the submission of such land availability report and No Objection Certificate to the Assistant Director of Mines and Geology (Respondent No. 6).

The statutory functions of granting quarry leases, conducting physical inspections of leasehold areas, measuring extracted minor minerals, issuing dispatch permits and transit waybills, and assessing and collecting seigniorage fees are exclusively vested in the officers of the Department of Mines & Geology under Rule 10(3)(b) of the Andhra Pradesh Minor Mineral Concession Rules, 1966. Respondent No. 6, the Assistant Director of Mines and Geology, is the designated field officer entrusted with this statutory responsibility, supported by the dedicated Vigilance Wing within the Department of Mines & Geology to detect and restrain unauthorised extraction.

The Revenue Department and its officers have neither the statutory empowerment, nor the technical machinery, nor the regulatory

mandate under the Andhra Pradesh Minor Mineral Concession Rules, 1966 to compute extracted material or levy and recover seigniorage fees from leaseholders or third parties. Fastening financial liability of Rs. 9,38,189/-each on the Petitioners for alleged non-collection of seigniorage fees is an exercise in perversity, shifting the default of the mining administration onto uninvolved Revenue Officers.

The impugned Show Cause Notice dated; 19-11-2018 is also vitiated by total vagueness and lack of material particulars. The notice fails to disclose the specific survey numbers where illegal extraction allegedly took place, the identity of the persons or entities who extracted the mineral, the precise quantity of material extracted, and the basis upon which the figure of Rs. 18.76 Lakhs was computed. It is a fundamental principle of administrative law and natural justice that no delinquent can be subjected to punitive action on vague, unsubstantiated presumptions without specific, verifiable imputations.

The entire impugned action is based exclusively on the ex-parte Vigilance Report bearing No. 150(367/V&E/NRI/2006) dated: 19-12-2006 submitted by the Director General (Vigilance & Enforcement). The Petitioners were never issued notice, nor examined, nor associated in any manner during the enquiry conducted by the Vigilance & Enforcement Department. The said report was never furnished to the Petitioners during their entire service tenure, nor at the time of their retirement, and came to their knowledge for the very first time only when the arbitrary recovery Memo dated 21-07-2015 was served upon them. An ex-parte administrative report could, at the very highest, serve only as a preliminary fact-finding report for the purpose of initiating a regular

departmental inquiry; it cannot, by itself, constitute substantive evidence or a substitute for a regular inquiry to impose civil liabilities or effect recoveries against retired officers.

The conduct of the Respondent authorities reveals egregious, hostile discrimination, offending Article 14 of the Constitution of India. Respondent No. 5 (The Director of Mines & Geology) specifically recommended dropping disciplinary and recovery proceedings against two subordinate officers who served as Assistant Directors of Mines and Geology (Respondent No. 6 cadre)-who were the statutory field authorities directly responsible for measuring mineral extraction and collecting seigniorage fees-solely on the ground that they had superannuated from government service. While the primary delinquent officers belonging to the parent department were exonerated and let off on the ground of retirement, the Petitioners, who are retired Revenue Officers having no connection with the collection of seigniorage fees, have been singled out for harsh recovery proceedings long after their superannuation. This selective targeting and unequal treatment among retired employees similarly situated constitutes hostile discrimination and renders the impugned action wholly arbitrary and violative of Article 14 of the Constitution of India.

The Respondents have also suppressed the vital fact that Respondent No. 6 had already initiated statutory recovery proceedings under the Andhra Pradesh Revenue Recovery Act, 1864 against the actual leaseholders and quarry operators who extracted the mineral material from the quarry sites to recover the outstanding seigniorage fees. Having set the statutory machinery in motion against the actual

extractors who are legally obligated to pay the seigniorage under Rule 10(3)(b) of the Andhra Pradesh Minor Mineral Concession Rules, 1966, there is no warrant or authority in law for the Respondents to pursue parallel recovery against the Petitioners.

The impugned Show Cause Notice dated: 19-11-2018 is nothing but an empty formality and a pre-decisional hearing. Following the quashing of the earlier recovery order dated: 21;07-2015 by the Andhra Pradesh Administrative Tribunal, the Respondents mechanically re-issued the same demand under the guise of a show cause notice misusing the liberty, relying entirely on the identical, unverified ex-parte report dated: 19-12-2006. Despite the Petitioners having submitted comprehensive written explanations on 01-12-2018 and 19-12-2018 categorically denying the allegations and demonstrating the absence of statutory jurisdiction, the Respondents failed to drop the proceedings or release the withheld retirement gratuity of Rs. 8,00,000/- to Petitioner No. 1.

Any independent civil claim or statutory recovery in respect of occurrences of the years 2002 to 2005 is also hopelessly barred by the law of limitation. Under Article 112 of the Limitation Act, 1963, the period of limitation for any suit or proceeding by or on behalf of the State Government is thirty years, whereas ordinary recovery of money claims is governed by a three-year period. However, under service jurisprudence, administrative recovery cannot be enforced after the lapse of decades when the statutory basis for establishing the debt itself has perished. Even taking the date of the Vigilance Report (19-12-2006)

as the starting point, the impugned Show Cause Notice issued on 19-11-2018 is hopelessly stale and unenforceable.

The Petitioners rendered more than three decades of unblemished service in the Revenue Department. Depriving the Petitioner No. 1 of his earned statutory gratuity of Rs.8,00,000/- since 30-09-2011 and threatening the Petitioner No. 2 with coercive revenue recovery after having released his retiral benefits on 30-06-2009, based on an illegal, ex-parte show cause notice issued twelve years after the alleged event, violates their constitutional rights guaranteed under Articles 14, 21, and 300A of the Constitution of India. The impugned Show Cause Notice Memo No. 59439/VIG.III(2)/2006 dated: 19-11-2018 is wholly without authority of law, void ab-initio, and liable to be quashed with a consequential direction to release all withheld retiral benefits forthwith.

Judgments Cited:

1. State of A.P. v. N. Radhakishan, (1998) 4 SCC 154 Supreme Court of India, 07-04-1998

2. State of Bihar v. Mohd Idris Ansari 1995 SPP(3)SCC-56, the State sought to deduct 70% of a retired employee's pension via a summary show cause notice without a full-dress departmental inquiry under the governing rules. The Supreme Court quashed the notice and deduction order as a nullity, holding that summary show cause notices cannot circumvent the procedural guarantees of a regular inquiry.

3. D.V. Kapoor v. Union of India, (1990) 4 SCC 314 - Supreme Court of India, 07-08-1990, the Supreme Court held that the power to withhold or

recover from pension is hedged with an indispensable condition precedent:

> "Under Rule 9(1) of the Central Civil Services (Pension) Rules, 1972, the President has reserved to himself the right to withhold pension... or he can recover from pension of the whole or part of any pecuniary loss... However, the exercise of the power is hedged with a condition precedent that a finding should be recorded either in departmental enquiry or judicial proceedings that the pensioner committed grave misconduct or negligence in the discharge of his duty while in office... In the absence of such a finding, the President is without authority of law to impose penalty."

4. In the landmark case Reported in 1998(8)SCC-1 (Whirlpool Corporation v. Registrar of Trade Marks (1998), the Hon'ble Supreme Court of India established a crucial precedent in administrative law by ruling that the availability of an alternative statutory remedy does not act as an absolute bar to a High Court entertaining a writ petition under Article 226 of the Constitution. The Court clarified that citizens can bypass alternative legal remedies and approach the High Court directly under four specific exceptions:

> i. when the action violates fundamental rights, ii. violates the principles of natural justice, iii. is completely without jurisdiction, or iv. challenges the constitutional validity of an Act. In this specific dispute, the Court quashed a trademark cancellation notice issued by the Registrar of Trade Marks because the Registrar lacked the jurisdiction to issue it while

parallel rectification proceedings were already pending before the High Court.

5. The brief points extracted from the judgement in AIR(SC)-2023-0-781- M/s Godrej Sara Lee Ltd. v. The Excise and Taxation Officer-cum-Assessing Authority & Ors. (Civil Appeal No. 5393 of 2010, decided on 01 February 2023 are:

Exceptions to Alternative Remedy: A High Court must entertain a writ petition despite an unexhausted statutory remedy where: a

- Fundamental rights are infringed:
- Principles of natural justice are violated:
- The proceedings or order are wholly without jurisdiction; or
- The vires of an Act is challenged.

In the present case- Through the impugned show cause notice the liability is fixed on the petitioners without any Charge, enquiry as prescribed under Rule.20 of CC&CA Rules there by the Fundamental rights of the petitioners are infringed causing huge financial loss.

6. 2016 (1) ALT 469 S. Zabeda Parken vs AP women's co of. Finance corporation--Non Framing of change not conducting an inquiry is bad Para-22-to 29, 38, 42,47,48.

7. 2010(2) SCC 772 state of up Vs Saraj Kumar Sinha- Para 28 to 30, 40 & 41 -Departmental inquiry has to be conducted in accordance with rules of natural Justice.

8. 1989 (1) SCC 764 Hindustan Petroleum corporation H.L. Trehan vs Union of India Para-12-614-Post decisional hearing is bad.Para. 12 to 14.

9. 2022 (3)ALT 743 S.Surender Abner vs state of A Pas per Revised pension Rule 9(2)(b) the impugned order is bad. Para. 8

10. Contrary to Govt. Memo.No. 17757-A2/216/A2/Pen-1/94, Fin. &Ping dept'dt;24-05-1994 - Para.3 and 4 of memo.

8. Therefore, prayed that this Hon'ble Court may be pleased to allow the Writ Petition and grant the following relief:

(a) Issue an appropriate writ, order, or direction, more particularly one in the nature of a Writ of Mandamus, declaring the Show Cause Notice bearing Memo No. 59439/VIG.III(2)/2006 dated: 19-11-2018 issued by Respondent No. 1 as illegal, improper, unjust, arbitrary, without jurisdiction, and contrary to the provisions of Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980. and quash and set aside the same;

(b) Declare that the Respondents are not entitled to initiate any disciplinary or recovery proceedings or recover any amounts whatsoever from the Petitioners pursuant to the impugned Show Cause Notice Memo No. 59439/VIG.III(2)/2006 dated: 19-11-2018 based upon the ex-parte Vigilance Report bearing No. 150(367/V&E/NRI/2006) dated: 19-12-2006;

(c) Direct the Respondents, particularly Respondents No. 1, 2, and 3, to forthwith release the withheld statutory retirement gratuity

amounting to Rs. 8,00,000/- (Rupees Eight Lakh only) in favour of Petitioner No. 1, Murari Sankarappa, along with admissible statutory interest thereon from the date of his superannuation until the date of actual payment;

(d) Restrain the Respondents from initiating or executing any coercive steps or recovery measures under the Andhra Pradesh Revenue Recovery Act, 1864 against Petitioner No. 2, T. Venkata Rao, pursuant to the impugned Memo;

(e) Award costs of the present writ petition in favour of the Petitioners; and

(f) Pass such other or further order or orders as this Hon'ble Court may deem fit, just, and proper in the circumstances of the case.}]

9. The 3rd respondent has filed counter affidavit stating that the impugned notice was issued as per the common orders of the Andhra Pradesh Administrative Tribunal in O.A.Nos.5999 of 2015 and 6000 of 2015 dated 11.07.2018 and the Tribunal has directed the respondents to issue a fresh show cause notice to the petitioners giving all the opportunities after obtaining explanation, if any from the petitioners. And also stated that the respondents can be detained the gratuity amount from the petitioners and there is no such delay in issuing the show cause notice.

10. Learned Assistant Government Pleader appearing for the respondents has relied on the judgment of the Apex Court in the case of the State of Jharkhand Vs. Rukma Kesh Mishra, 2025 SCC OnLine SC 676 for the proposition that “no writ is maintainable against the show cause notice and also relied on another judgment of Apex Court in the case of Union of India and another Vs. Kunisetty Satyanarayana reported in 2006(12) SCC 28, the Apex Court after following the previous judgments of the Apex Court, reasoned that a writ petition should not be entertained against a show cause notice or charge sheet and at that state, the writ petition may be held to be prematured. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so”.

11. It is a fact that the 1st respondent passed an order through memo dated 21.07.2015 to recover an amount of Rs.9,38,189/- from each petitioner. The said memo was challenged on the same grounds that raised in the present writ petition, and the Administrative Tribunal has set aside the memo dated 21.07.2015 for recovery of Rs.9,38,189/- from each petitioner. The Administrative Tribunal granted permission to

the respondents to issue a fresh show cause notice to the petitioners provided that the petitioners should be given all the opportunities to file their objections. Additionally, the Tribunal permitted the respondents to withhold the gratuity amount payable to the 1st petitioner. This direction by the Administrative Tribunal has since become final, as it was not challenged by the writ petitioners. Consequently, the 1st respondent issued the impugned notice dated 19.11.2018 in compliance with the Tribunal's order. Having invited an order from the A.P.Administrative Tribunal, the petitioners cannot contend that the impugned show cause notice is barred by limitation under Rule 9(2)(b)(ii) of the A.P.Revised Pension Rules. Therefore, the contention that the present impugned show cause notice is barred by limitation is untenable and unsustainable. Accordingly, the said contention is hereby rejected. The writ petition is devoid of merit.

12. Therefore, as rightly argued by the learned Assistant Government Pleader, the Writ Petition is prematured. Therefore, it is liable to be dismissed. The respondents are directed to examine the explanation submitted by the petitioners, and pass appropriate orders in accordance with the due procedure of law as contemplated under the AP CCA Rules 1991.

13. With the above observations, the Writ Petition stands dismissed. There shall be no order as to costs.

As a sequel thereto, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 03.11.2026

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THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.22503 of 2021

Date: 03.11.2026

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