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APHC010550862025

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

MONDAY, THE 5th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 29093 OF 2025

Between:

1. KALLAM SIVA PRABHAKARA REDDY, S/o. Sambireedy, Aged about 63 years, Retired Employee, R/o.D.No. 48-11-7/1, Flat No. 107, Anjali Apartments, Currency Nagar, Vijayawada - 520008.

...Petitioner

AND

1. THE STATE OF ANDHRA PRADESH, Rep. by its Principal Secretary, Department of Energy, A.P Secretariat, Amaravati Capital City, Velagapudi Post, Thullur Mandal, Guntur District.

2. Andhra Pradesh Central Power Distribution Company Limited APCPDCL, Rep.by its Chairman and Managing Director, Near ITI College Road, Opposite Ramesh Hospital Vijayawada.

3. The Superintending Engineer Operations, APCPDCL, Opposite Ryothu Bazar, NTR Circle, Near PW Grounds, Vijayawada.

4. The Accounts Officer, Expenditure Operations APCPDCL, Central Office, 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 an order or direction or writ more particularly on in the nature of Writ of Mandamus or any other suitable writ declaring the impugned order vide proceedings in Lr.No. SC/0/VJA/SA0/A0(E)/AA0 l/JAO/PRS/A4/D.No.577 dated 27.10.2023 of 4th Respondent ordering recovery of an amount of Rs.7,48,215 from my retirement benefit and consequently recovering the same as arbitrary and violative of article 14, 16 and 21 of Constitution of India and consequently set-side the same and direct the respondents to refund the amount to the petitioner with interest @ 12 percentage p.a. grant costs of the proceedings and pass such other orders.

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 direct the respondents to recover an amount of Rs.7,48,215/- forthwith and pass such other orders.

Counsel for the Petitioner: M PITCHAIAH

Counsel for the Respondents: V. V. SATISH (SC for APEPDCL)

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following order:

Whether the order is :

Speaking Yes/No / Reasoned Yes/No
Reportable Yes/No / Non-Reportable Yes/No

HON'BLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO.29093 OF 2025

ORDER:

1. The present Writ Petition is filed questioning the impugned Proceedings issued by Respondent No.4 *vide* Lr.No.SC/ O/ VJA/ SAP/ AO(E)/ AAO-I/ JAO/ PRS/ A4/ D.No.577, dated 27.10.2023, directing to recover Rs.7,48,215/- from the retirement benefits, as illegal and arbitrary.

2. The facts leading to filing of the present Writ Petition are as follows:

The Petitioner was appointed as Sub-Overseer in erstwhile APSEB at Vijayawada on 10.02.1989 and worked as such till 18.01.1998 and thereafter on 19.01.1998 he was promoted as Assistant Engineer and worked at different places. While so, on 31.08.2023, a Memo dated 31.08.2023 was issued by Respondent No.1 retiring the Petitioner on attaining the age of superannuation. Thereafter, Respondent No.4 issued the impugned Proceedings dated 27.10.2023 ordering recovery of an amount of Rs.7,48,215/- from the retirement benefits of the Petitioner alleging that the Petitioner was paid excess amount for the period from 13.01.1998 to 31.08.2023 from his terminal benefits. Aggrieved thereby, the present Writ Petition is filed.

3. Sri V.V. Satish, learned Standing Counsel for APSEB appearing for the Respondents would contend that the present Writ Petition is filed after a long lapse of time and therefore, the same cannot be entertained.

4. Heard the respective counsel.

5. It is to be noted that the Petitioner had retired from service in the year 2023 and it is not the case of the Respondent-Corporation that the Petitioner had influenced in making wrong pay fixation.

6. The Hon'ble Apex Court in the case of ***State of Punjab and others v Rafix Masih (White Washer)*** [1] has held that after considering the case law in vogue at that point of time fixed certain parameters at Paragraph No.18, situations where recovery should not be effected from the employees. Paragraph No.18 of the said Judgment reads as under:

> "It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

[1] (2015) 4 SCC 334

> (i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).
>
> (ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.
>
> (iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
>
> (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.
>
> (v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

7. In view of the above Judgment, the recovery from the retired employees or the individuals, who are due to retire within one year, is impermissible. The same principle was reiterated by the Hon'ble Apex Court in ***Thomas Daniel v State of Kerala and others***[2] and ***Jogeswar Sahoo and other v The District Judge, Cuttack and others***[3].

[2] 2022 Live Law (SC) 438
[3] 2025 Livelaw (SC) 396

8. The Petitioner's case clearly fits under the aforementioned category. Therefore, the impugned recovery by the Respondents towards excess pay and allowance due to wrong pay fixation cannot be sustained.

9. The contention of the learned Standing Counsel appearing for the Respondents with regard to delay is misconceived considering the categorical Judgment of the Hon'ble Apex Court and the retention of the money being in contravention of the Judgment of the Hon'ble Apex Court, the delay would not be material to reject the case of the Petitioner.

10. Accordingly, the Writ Petition is allowed and the Respondent-authorities are directed to pay a sum of Rs.7,48,215/- to the Petitioner with interest at 7.5% p.a. within a period of three (3) months from the date of receipt of this order.

11. There shall be no order as to costs.

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

NYAPATHY VIJAY, J

Date: 05.10.2026

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HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION No.29093 of 2025

Dated: 05.10.2026

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