

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

FRIDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE



PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 15032 OF 2020

Between:

P.Nageswara Rao, S/o. Late Narayana, Aged about 61 years, Retd. Superintending Engineer, Panchayat Raj Department, Nellore District, Nellore., R/o. H.No. 26-16-328/ 13, Guduru Bhaskar Ramreddi Nagar, Near Pavani Gardens Group Houses, SPSR Nellore District - 524003.

...Petitioner

AND

1. The State of Andhra Pradesh, rep. by its Principal Secretary, Panchayat Raj And Rural Development Department, Secretariat, Velagapudi. Amaravathi, Guntur District.
2. The Engineer in Chief, Panchayatraj Department, Vijayawada, A.P.
3. The Registrar, Tribunal for Disciplinary Proceedings, 5th Floor, Chandra Vihar Building, M G.Road Hyderabad,

...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 appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus to declare the action of the respondents in not passing any orders in Case No. 6/2015, pending before the Hon'ble Tribunal for Disciplinary proceedings at Hyderabad (3rd

respondent) though the Articles of charges was dropped by the Government vide G.O.Rt.No. 80 dated 29-1-2016 on the very same issue and not releasing the remaining pension and full pensionary benefits etc., is illegal, arbitrary, unreasonable and violation of principles of natural justice and consequently direct the respondents to drop the TDP Case No. 6/2015 before the 3rd respondent by taking consideration of GO RT.No..80 dated 29-1-2016 and sanction and release the pensionary benefits due to petitioner in the interest of justice.

IA NO: 1 OF 2020

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 drop the TDP Case No. 6/2015 before the 3rd respondent by taking consideration of GO RT No.80 dated 29-1-2016 and sanction and release the pensionary benefits etc., due to petitioner in the interest of justice.

**Counsel for the Petitioner: SRI M VIJAY KUMAR LEARNED SENIOR
COUNSEL REPRESENTING SRI. MANOJ KUMAR BETHAPUDI**

Counsel for the Respondents: GP FOR PANCHAYAT RAJ RURAL DEV

The Court made the following order:

APHC010228132020



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

[3310]

FRIDAY ,THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 15032/2020

Between:

P.Nageswara Rao,

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.MANOJ KUMAR BETHAPUDI

Counsel for the Respondent(S):

1.GP FOR PANCHAYAT RAJ RURAL DEV

The Court made the following:

ORDER :

This Writ Petition is filed under Article 226 of the Constitution of India for 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 respondents in not passing any orders in Case No 6/2015 pending before the Honble Tribunal for Disciplinary proceedings at Hyderabad 3rd respondent though the Articles of charges was dropped by the Government vide G.O.Rt.No 80 dated 29.1.2016 on the very same issue and not releasing the remaining pension and full pensionary benefits etc is illegal arbitrary unreasonable and violation of principles of natural justice and consequently direct the respondents to drop the TDP Case No 6/2015 before the 3rd respondent by taking consideration of GO RT No 80 dated 29.1.2016 and sanction and release the pensionary benefits due to petitioner in the interest of justice and to pass ..."

2. Brief facts of the case are that , while the petitioner working as Executive Engineer, P.R., Kakinada, East Godavari District, the ACB authorities filed FIR No 13 dated 25-5-2008 before the PS, ACB, Nellore. Thereafter, the petitioner was arrested on 28.08.2008 on the ground of a case has been registered in Crime No. 13/RCA-NLR/2008 u/s 13(2) R/W 13 (1) (e) of Prevention of Corruption Act 1988 in connection with disproportion of Assets, and detained custody exceeding of 48 hours. On this ground, the petitioner was placed under suspension on 3-10-2008 w.e.f. date of arrest i.e., 28-8-2008 and later reinstated into service vide G.O.Rt.No 1809 dated 2-12-2008. It is stated that the petitioner was admitted in APPOLO Hospital, Hyderguda on 25-1-2012, under gone treatment for Heart Attack and discharged on 26-1-2012. It is further stated that the 1st respondent issued Memo dated 8-2-2012 and entrusted to the 3rd respondent for disciplinary proceedings for enquiry. The 1st respondent issued Memo dated 23-6-2014 wherein stated that to conduct the thorough enquiry in the above matter and submit the report to the government within the stipulated period. In fact as per earlier rules the petitioner's retirement date is 30-6-2017, subsequently it was enhanced two more years i.e., 30-6-2019. Further, it is stated that the 1st respondent issued G.O.Rt.No. 483, dated 15-5-2015 wherein Articles of Charges were issued, which clearly mentioned that while working as Executive Engineer, PR Department, Kakinada for the period from 4-10-1982 to 27-8-2008 had acquired assets in his name and his family members. Moreover the said assets pertain to long back.

While things stood thus, notice was served to petitioner by the 3rd respondent vide Tribunal Enquiry Case No.6/2015 on the ground of disproportionate assets for the same period i.e., 4-10-1982 to 27-8-2008. Thereafter the 1st respondent issued G.O.Rt. No. 1025 dated 9-11-2015 wherein appointed the Enquiry Officer, to conduct enquiry under Rule 20 of APCS Rules (CC&A) 1991. Thereafter Government issued G.O.Rt.No.80 dated 29-1-2016 wherein, categorically stated that further action dropped and departmental enquiry was cancelled. It is stated that the Government has not paid the commutation, gratuity, encashment of leave for 300 days etc. On the ground of pending before the TDP case No. 6 of 2015. Accordingly, the petitioner made a representation to the respondents on 2-1-2018 and requesting to drop the further proceedings against the petitioner by taking consideration of G.O.Rt.No. 80 dated 29-1-2016 otherwise he would suffer irreparable loss and hardship. The same is pending before the respondent authorities, but no action has been taken till now. Hence, the present writ petition.

3. The counter affidavit has been filed by the respondents No.1 and 2. While denying all the allegations made in the petition, inter alia, stated that the Tribunal for Disciplinary Proceedings conducted inquiry in TEC No.6/2015 pertains to allegation that in abusing his official position, the Petitioner acquired and possessed disproportionate assets to his known sources of legal income to a tune of Rs.23,41,373/- (as per final report of the Director General, Anti-Corruption Bureau). Whereas the orders issued by the Government in

G.O.Rt.No.80, Panchayat Raj and Rural Development (Vig. I) Department, Dated: 29.01.2016 relates to dropping further action against the Petitioner on violation of A.P.C.S. (Conduct) Rules, 1964. Both the said issues are different. As such, the contention of the Petitioner that on the same issue, the Government dropped further action against him in G.O.Rt.NO.80, Panchayat Raj and Rural Development (Vig. I) Department, Dt:29.01.2016 is not correct. It is stated that, the Government have reminded the Secretary, Tribunal for Disciplinary Proceedings, Hyderabad to intimate the latest stage of the TDP inquiry against the Petitioner in TEC No. 6 of 2015 vide Govt. Memo dated: 4.6.2021 and recently vide Memo dated: 27.12.2021. Reply is awaited

It is further stated that as per the orders issued in G.O.Rt.No.1097, Finance & Planning (FW.Pen.I) Department, dt: 22.06.2000, the retired Government servants against whom disciplinary proceedings / criminal proceedings are pending, are eligible for provisional pension only and no gratuity shall be sanctioned to them until conclusion of such proceedings. It is stated that, with regard to sanction of encashment of earned leave, the Hon'ble High Court of A.P in their orders dated 03.11.2020 in W.P.No. 20295 of 2020, filed by one Sri G.V. Rama Rao, retired Deputy Executive Engineer, PR, Krishna District, have directed the respondents to process and permit the petitioner to encash Earned Leave and to release 80% retirement gratuity within a period of four weeks from the date of receipt of copy of the orders. The said petitioner is also facing disproportionate assets case and the same is pending adjudication before the Hon'ble Court of Special Judge for SPE &

ACB Cases at Vijayawada in CC No.7 of 2008. Similarly, the Departmental inquiry on violation of conduct rules is pending against the said Petitioner as on the date. Aggrieved by the order dated 03.11.2020 passed in WP No.20295 of 2020, the Government have filed Writ Appeal No. 364 of 2021 before the Hon'ble High Court of A.P. The Division Bench of Hon'ble High Court of A.P., in their interim orders dated: 02.07.2021 have suspended the orders of Hon'ble High Court dt: 03.11.2020 in W.P.No. 20295/2020 filed by Sri G.V. Rama Rao, retired Deputy Executive Engineer (PR), Krishna District. The Writ Appeal No. 364 of 2021 is under adjudication before the Hon'ble High Court of A.P.

It is further stated that the Petitioner was retired from service on 30.06.2019. Based on the proposals of the Engineer-in-Chief, Panchayat Raj, A.P, Government have sanctioned 75% of provisional pension to the Petitioner payable with effect from 01.07.2019 onwards till finalization of disciplinary / criminal cases pending against him vide G.O.Rt.No. 596, Panchayat Raj and Rural Development (Vig. II) Department, dated: 13.09.2019. In view of the above, it is stated that the contention of the Petitioner that the Government dropped further action against him on violation of APCS (Conduct) Rules, 1964 vide G.O.Rt.No.80, Panchayat Raj and Rural Development (Vig. 1) Department, Dt: 29.01.2016 on the same issue and direct the respondents to drop the TDP Case NO.6/2015 before the 3rd respondent by taking into consideration of the G.O.Rt.NO.80, Panchayat Raj and Rural Development (Vig. I) Department, Dt: 29.01.2016 and his

pensionary sanction benefits not tenable. The Petitioner is not entitled for such benefits till finalization of case in TEC No.6/2015 pending before the Tribunal for Disciplinary Proceedings at Hyderabad. In view of the above circumstances, prayed to dismiss the writ petition.

4. Heard Mr.M.Vijay Kumar, learned Senior Counsel representing Mr. Manoj Kumar Bethapudi, learned counsel appearing for the petitioner and learned Government Pleader for Panchayat Raj & Rural Development appearing for the respondents.

5. On hearing, learned Senior counsel while reiterating the averments made in the petition, submits that, the 1st respondent issued G.O.Rt No.1025 dated 9.11.2015 by appointing Enquiry Officer to conduct enquiry under Rule 20 of APCS Rules (CC&A) 1991. Accordingly, the enquiry officer conducted enquiry. Thereafter, the further action dropped and departmental enquiry was cancelled vide G.O.Rt No.80 dated 29.01.2016 by the Government. He submits that the petitioner was attained age of superannuation as on 30.06.2019 and subsequently the respondents have issued provisional pension and GPF paid but rest of the benefits were not paid till date. He further submits that the Government has also not paid the Commutation Gratuity, Encashment of Leave for 300 days etc., on the ground of pending the case before the TDP vide TDP No.6 of 2015 thereafter the petitioner made a representation dated 2.1.2018 to the respondents requesting to drop further proceedings against the petitioner by taking into consideration the GO Rt

No.80 dated 29.1.2016 otherwise the petition would suffer irreparable loss and hardship.

6. Per contra, learned Government Pleader appearing for the respondents opposed and prayed to dismiss the writ petition.

7. Perused the material on record.

8. On a perusal of the material on record, it is observed that, the 1st respondent issued G.O.Rt.No.483 dated 15.5.2015 wherein Articles of charges were issued and wherein it was clearly mentioned that while working as Executive Engineer, PR Department, Kakinada for the period from 4.10.1982 to 27.08.2008 had acquired asset in the name of petitioner and his family members. Further it is observed that a notice was served on the petitioner by the 3rd respondent Vide Tribunal Enquiry Case No.6/2015 on the ground of disproportionate assets for the same period. Thereafter the 1st respondent issued G.O.Rt.No.1025 dated 9.11.2015 and appointed the Enquiry officer to conduct enquiry under Rule 20 of APCS Rules (CC&A) 1991.

9. AS seen from the G.O.Rt.No.80 Panchayat Raj and Rural Development (Vig.I) Department dated 29.01.2016, extracted hereunder:

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Public Services PRARD Department- Sri Pliageswara Pao, the then EE, PP. Kakinada, East Godavari District and Presently working as EE, PPI Division, Kadapa da. Disciplinary proceedings initiated for violang Rules, 1964-of APCS (Conduct) Enquiry Office Examined. Further action dropped and Engineer in Chief submitted Examined Bapartmental enquiry cancelled - Orders Issued."

PANCHAYAT RAJ AND RURAL DEVELOPMENT(VIGI) DEPARTMENT

G.O.RT.No. 80

Dated: 29-01-2016

Read the following

1. From the DG,ACB, Hyd., Rc No.200/RCA-NNL/2008, dt..23.12.2010
2. G.O.Rt.No.484, PR & RD (Viz.I) Department,dated 15.05.2015
3. From Sri P. Nageswara Rao, the then EE, PR, Kakinada, East Godavari District and Presently working as EE, PRI Division, Kadapa, WSD, Dated.06.06.2015.
4. G.O.Rt. No. 1025, PR&RD (Vig.I) Department, D1.09.11.2015.
5. Govt. Memo.No.20235/Vig.I/2008, PP&PD(Vig.I) Department, Dt. 14.12.2015
6. From Engineer in Chief, PR. No. Vig. II/2/30733/2008, Dt.18.12.2015.

ORDER:

In the reference 2nd read above, disciplinary proceedings were initiated against Sri P.Nageswara Rao, the then Executive Engineer, Panchayat Paj. Kakinada, East Godavari District and Presently working as Executhe Engineer, PRI Division, Kadapa, by framing article of charges under Rule-20 of Andhra Pradesh Civil Services (CCA) Rules, 1991, for acquiring assets in his name and in the name of his family members, without obtaining prior permissicn from the competent wility and for failure file the Amal property Returns before the competent authority in violation of Andhra Pradesh Civil Services (Conduct) Rules, 1954.

2. In response to the charges, Sri P.Nageswara Pao, the then Executive Engineer, Panchayat Raj. Kakinada, East Godavari District and presently working as Executive Engineer, PRI Division, Kadapa has submitted his written statement of defence in his representation 3rd read above.

3. After examining the matter, Government, in the reference 4 read above, have appointed Smt. K.Padmaja, Chief Engineer, NABARAD, O/O Engineer in Chief, Panchayat Raj, Andhra Pradesh, Hyderabad as Enquiry Officer to conduct regular enquiry into the charges framed against Sri P.Nageswara Rao, the then Executive Engineer, Panchayat Raj. Kakinada, East Godavari District and Presently working as Executive Engineer, PRI Division, Kadapa, under Andhra Pradesh Civil Services (CC&LA) Rules, 1991.

4. The Engineer in Chief, Panchayat Raj, Andhra Pradesh, Hyderabad. vide reference 6^o read above, has stated that Sri P.Nageswara Rao, the then Executive Engineer, Panchayat Raj, Kakinada, East Godavari District and presently working as Executive Engineer, PRI Division, Kadapa, has submitted Annual Property Returns for the year 1982-83 to 2007.

5. Government, after careful examination of the matter and the report of Enginter in Chief, Panchayat Raj, Andhra Pradesh, Hyderabad, have decided to drop further action against Sri P.Nageswara Rao, the then Executive Engineer, Panchayat Raj, Kakinada, East Godavari District and Presently working as Executive Engineer, PRI Division, Kadapa, in this matter. duly cancelling the orders appointment of Enquiry officer and Presenting officer issued in the reference 4th read above.

6. Accordingly, Government hereby drop further action against Sri P.Nageswara Rao, the then Executive Engineer, Panchayat Raj. Kakinada, East Godavari District and Presently working as Executive Engineer, PRI Division, Kadapa, in this matter, duly cancelling the orders of appointment of Enquiry officer and Presenting officer issued in the reference 4th read above.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.K.S.JAWAHAR REDDY

PRINCIPAL SECRETARY TO GOVERNMENT(PR)

10. On a perusal of the above G.O., it clearly established that the Government in the above G.O. stated that further action dropped and departmental enquiry was cancelled. Therefore, this Court is inclined to dispose of the present writ petition while directing the respondents to drop the TDP Case No.6/2015 on the file of the 3rd respondent by taking into consideration of the G.O.Rt.No.80 dated 29.01.2016 and also directed to release all pensionary benefits due to the petitioner within a period of three (03) months from the date of receipt of a copy of this order.

11. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel, miscellaneous applications pending, if any, shall also stand closed.

//TRUE COPY//

**Sd/- M. SRINIVAS
ASSISTANT REGISTRAR**

SECTION OFFICER

To,

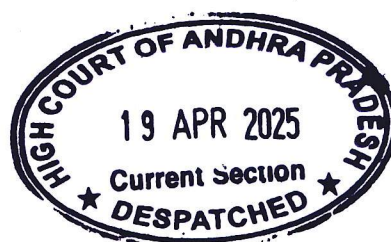
1. The Principal Secretary, Panchayat Raj And Rural Development Department, State of Andhra Pradesh, Secretariat, Velagapudi. Amaravathi, Guntur District.
2. The Engineer in Chief, Panchayatraj Department, Vijayawada, A.P.
3. The Registrar, Tribunal for Disciplinary Proceedings, 5th Floor, Chandra Vihar Building, M G.Road Hyderabad,
4. One CC to Sri. Manoj Kumar Bethapudi Advocate [OPUC]
5. Two CCs to GP for Panchayat Raj Rural Dev, High Court Of Andhra Pradesh. [OUT]
6. Three CD Copies

HIGH COURT

DATED:28/02/2025

ORDER

WP.No.15032 of 2020



DISPOSING OF THE WP

WITHOUT COSTS