



**HIGH COURT OF ANDHRA PRADESH**  
TUESDAY ,THE EIGHTEENTH DAY OF AUGUST  
TWO THOUSAND AND TWENTY

**PRESENT**

**THE HONOURABLE SRI JUSTICE G. SHYAM PRASAD**

**WRIT PETITION NO: 12876 OF 2020**

**Between:**

1. M.Venkata Reddy, s/o Ram Reddy aged 63 years, Retired Proh and Excise Inspector Guntur Tow Town, r/o D.No.17-8-420, MRR Trivalli, Opp. Shivalayam, Nallapadu, Guntur, State of Andhra Pradesh

**...PETITIONER(S)**

**AND:**

1. The State of Andhra Pradesh rep by its Special Chief Secretary, Revenue (Excise) 4th Block, Ground Floor, Room No. 134, A.P.Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Commissioner of Proh and Excise, State of Andhra Pradesh, Rs.No. 88-2B, Sai Vihar Apartments, Poultry Farm Road, Prasadampadu, (V), Vijayawada, Krishna District.

**...RESPONDENTS**

**Counsel for the Petitioner(s): RAMALINGESWARA RAO KOCHARLA  
KOTA**

**Counsel for the Respondents: GP FOR SERVICES I**

**The Court made the following: ORDER**



**\* HON'BLE SRI JUSTICE G. SHYAM PRASAD**

**+ W P No.12876 OF 2020**

% 18-08-2020

# M. Venkata Reddy, S/o Ram Reddy  
Aged 63 years Retired Proh & Excise  
Inspector Guntur Two Town,  
D No.17-8-420, MRR Trivalli  
Opp. Shivalayam, Nallapadu  
Guntur, State of Andhra Pradesh

... petitioner.

vs.

- \$ 1. The State of Andhra Pradesh,  
Rep by its Special Chief Secretary,  
Revenue (Excise) 4<sup>th</sup> Block, Ground Floor,  
Room No.134,A P Secretariat,  
Velagapudi, Amaravati, Guntur district
2. The Commissioner of Proh & Excise  
State of Andhra Pradesh  
RS.No.88-2B Sai Vihar Apartments  
Poultry Farm Road, Prasadampadu  
(V), Vijayawada, Krishna District.

... Respondents.

!Counsel for the petitioner : Sri Ramalingeswara Rao

^Counsel for the Respondents : G.P. for Services-I

<Gist :

>Head Note :

? Cases referred : (1996) 9 SCC 395

**HON'BLE SRI JUSTICE G. SHYAM PRASAD****W.P. No.12876 OF 2020****ORDER:**

This is a writ of Mandamus filed by the petitioner for declaring the impugned Charge Memo in G.O.Rt.No.831 Revenue (Vigilance.IV) Department, dated 13.6.2018, issued by the 1<sup>st</sup> respondent for the incident relates to the year 2013 i.e., beyond his retirement, contrary to Rule 9(2)(b)(ii) of A.P.Revised Pension Rules 1980 (for short "the Rules 1980"), as illegal and arbitrary.

2. Heard the arguments of learned counsel for the petitioner and learned Government Pleader for Services-I appearing for the respondents.

3. Learned counsel for the petitioner placed reliance on the judgment of this Court in WP No.13493 of 2019 and sought for similar relief in this matter.

4. In the above said writ petition, the petitioner worked as Excise Inspector and retired from service on 31.10.2013. A Charge memo was issued pertaining to the incident in the year 2011. The same was issued on 29.11.2018, but it was served on the petitioner on 19.12.2018. As per Rule 9(6) of the Rules 1980, the explanation for regularization under 351-A provides that departmental proceedings shall be deemed to have been instituted when the charges framed against the pensioner were issued to him or from the date of his being placed under suspension, if applicable.



5. In the light of the judgment in the case of **State of U.P. vs Shri Krishna Pandey**<sup>1</sup>, this Court observed that departmental proceedings must be instituted before lapse of 4 years from the date on which the event of misconduct takes place. In the case referred above, the charges pertaining to the period are more than 4 years prior to the retirement of the petitioner. On that ground the charge memo was quashed. A common order was passed by a Division Bench of this Court in WP Nos.25587, 26311 and 26381 of 2018, dated 15.11.2018, wherein reliance was placed on the judgment in the **State of U.P.**'s case (supra 1).

6. Coming to the facts of the present case, the petitioner was allowed to retire from service as Prohibition & Excise Inspector, Guntur. After his retirement, the 1<sup>st</sup> respondent herein issued a Charge memo in G.O.Rt.No.831, for the incident relating to the year 2013. The petitioner has retired from service on 28.02.2017.

7. Learned counsel for the petitioner placed reliance on Rule 9(2)(b)(ii) of Rules 1980, and submits that, charge memo dated 13.06.2018 was issued contrary to the above said provision. Rule 9(2) (b)(ii) reads as under:

***“9. Right of Government to withhold or withdraw pension :-***

(1) xxx.....

(2) *“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,*

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<sup>1</sup> (1996) 9 SCC 395



*corruption, moral turpitude, forgery, outraging the modesty of women and misconduct.”*

*(2) (a) xxx*

***(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; “***

8. The facts of the case are that, the petitioner joined as a constable in Excise Department on 02.10.1984 and later was promoted as driver. He was then posted at Vijayawada on 17.07.1990. After a few years on 17.04.1994 he was promoted as Head Constable and posted at Achampet, further he was promoted as Sub Inspector, Prohibition & Excise on 24.11.2000. Thereafter he worked as Sub Inspector of Police till 08.08.2008, and also worked in Guntur II Town Station, as Sub Inspector till 28.09.2011. Later he was promoted as Prohibition & Excise Inspector on 27.08.2012. Then on 28.02.2017 he had retired from service. By the date of his promotion, Charge memos were pending against him. Subsequent to his date of retirement, the 1<sup>st</sup> respondent issued sanction order under Rule 9 of Rules 1980, to conduct Departmental proceedings against him vide G.O.Ms.No.313 Revenue (Vigilance.IV) Department, dated 13.6.2018. On the same day, the Charge memo was also issued vide G.O.Rt.No.831, Revenue (Vigilance. IV) Department, dated 13.06.2018. On 23.07.2018 a impugned Charge memo along



with a sanction order was served on him by the Deputy Commissioner of Prohibition & Excise, Ongole, vide proceedings, dated 19.07.2018. The petitioner has submitted his representation on 28.07.2018 and requested to furnish the relevant documents in terms of Sub-Rule (4) of Rule 20 of A.P.CCA Rules. The respondents did not furnish the documents and therefore the petitioner filed his written statement of defence to the charges as mentioned in Annexure-I of the Statement of Articles for the Charges framed.

9. Learned counsel for the petitioner submits that as per Rule 9(2)(b)(ii) of Rules 1980, no proceedings can be initiated against the retired Government employee for an incident pertaining to 4 years anterior to the date of such initiation. The impugned proceedings were issued by the 1<sup>st</sup> respondent dated 13.06.2018 for the alleged incident that occurred in the year 2013.

10. Learned Government Pleader for Services-I fairly submits that the matter is squarely covered by order in W.P.No.13493 of 2019.

11. In view of the foregoing reasons, as proceedings are initiated against the retired Government employee, for an incident pertaining to 4 years anterior to the date of such initiation, and, as the same were not initiated while employee was in service, the proceedings are hit by Rule 9(2)(b)(ii) of Rules 1980. Hence, proceedings are liable to be quashed, as not maintainable under law.



12. With these observations, the Writ Petition is disposed of. No order as to costs.

Miscellaneous petitions, if any, pending shall also stand closed.

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**G. SHYAM PRASAD,J**

Date: 18.08.2020

**Note : L.R Copy to be marked.**

(b/o)

*Gvl*



**HON'BLE SRI JUSTICE G. SHYAM PRASAD**

**WRIT PETITION No.12876 OF 2020**

**Date: 18.08.2020**

***Gvl***