

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 5501 of 2011**

B. N. Khatkar S/o late Shri D. R. Khatkar, aged about 66 years, occupation retired Deputy Ranger, R/o village Kohka, Post Bilari, Tahsil Pamgarh, District Janjgir-Champa (CG)

---- Petitioner**Versus**

1. The State of Chhattisgarh through the Secretary, Forest Department, D.K.S. Bhawan, Raipur (CG)
2. The Chief Conservator of Forest Raipur, District Raipur (CG)
3. The Conservator of Forest, Bilaspur Division, Bilaspur, District Bilaspur (CG)
4. Managing Director, Jila Vanopaj Sahakari Union Maryadit Jashpur Nagar, District Jashpur (CG)
5. Divisional Forest Officer, Forest Division Dharamjaigarh, District Raigarh (CG)

---- Respondents

For Petitioner	:	Smt. Indira Tripathi, Advocate
For Respondent/State	:	Shri Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****05/04/2018**

Challenge in the present writ petition is the action on the part of the respondents in recovering the amount of Rs.88,000/- against the alleged principle amount of Rs.35,073.18.

2. Brief facts of the case are that the petitioner was initially appointed as a Forester and in due course of time, he was posted as a Deputy Ranger and thereafter as a Manager. While working as a Manager, the petitioner had drawn an amount of Rs.35,073/- for payment of wages to the labourers. The

petitioner is said to have paid an amount of Rs.30,000/- to the Deputy Manager Shri Subodh towards payment of wages to the labourers and for the balance amount of Rs.5,073/-, the petitioner had submitted gunny bags valuing Rs.5,073/- to the department.

3. Counsel for the petitioner submits that though the petitioner had given explanation for the money which he had received for payment of wages to labourers, yet the respondents passed an order for the first time on 05.11.1997 directing the petitioner to deposit an amount of Rs.77,698.82 including interest of Rs.42,625.64 on the principle amount of Rs.35,073.18. According to the petitioner, the said order of recovery has been passed without conducting any enquiry whatsoever and that no show cause notice or even a preliminary enquiry was conducted before issuance of the recovery order. The petitioner was not called upon to explain or give the details as regards the money which was allegedly drawn by him. Counsel for the petitioner further submits that though Annexure P-2 shows that it was only an order of recovery of Rs.77698.82, however, the respondents have illegally deducted an amount of Rs.88,000/- from the pensionary benefits payable to the petitioner. Thus, the impugned order of recovery is bad in law and the same deserves to be set aside.

4. State counsel, however, opposing the petition submits that it is a case where there was no explanation provided by the petitioner while he was in service in respect of Rs.35,073.18 received towards payment of wages to the workers. Since there was no proper explanation, the department had initiated recovery proceeding which cannot be said to be bad in law or illegal in any manner as the Department has right to recover any loss which has been caused to the Department.

5. Having heard the counsel appearing for the parties and on perusal of the record what clearly reflects is that undisputedly, there was no enquiry

conducted before issuance of the order of recovery. From the record it does not appear that the petitioner was given an opportunity of hearing before the order of recovery was passed. Further what cannot be brushed aside is that the reply filed by the respondents also is silent regarding the explanation provided by the petitioner in respect of Rs.30,000/- paid to Shri Subodh, the Deputy Manager for payment of wages to the workers and the Gunny bags valuing Rs.5,073/- deposited with the department.

6. In the aforesaid factual matrix of the case, the order of recovery under any circumstance is not sustainable holding it to be bad in law and in violation of the principles of natural justice. The impugned order of recovery is therefore set aside and it is ordered that the amount of recovery made by the Department should be refunded to the petitioner with interest @ 10% forthwith. However, the Department shall have the liberty of conducting an enquiry in respect of any outstanding payment to be received from the petitioner and only after an enquiry in this regard, the respondents will initiate appropriate recovery proceeding against the petitioner.

7. With the aforesaid observation, the writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
JUDGE