

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2220 of 2017

- Vinod Kumar Rajak S/o Shri C. R. Rajak, Aged About 58 Years R/o House No. 3, Employees Colony Simga, P S Simga District Baloda Bazar Chhattisgarh.

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Versus

1. State of Chhattisgarh through The Secretary, Department of Panchayat and Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur Chhattisgarh.
2. Secretary, State of Chhattisgarh, Department of Panchayat and Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur Chhattisgarh.
3. Executive Engineer, Rural Engineering Service, A Wing of Department of Panchayat and Rural Development, Division Mahasamund, Mahasamund Chhattisgarh.

... Respondents

For Petitioner	:	Shri Atanu Ghosh, Advocate.
For Respondents	:	Shri B. Gopa Kumar, Dy. A.G

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/04/2018

1. The challenge in the present writ petition is to Annexure P-1 dated 05.10.2016 whereby the disciplinary authority has passed an order of recovery against the petitioner to the tune of Rs. 2,06,123/-.
2. The challenge also is to order dated 21.03.2017 whereby the departmental appeal preferred by the petition stood rejected.
3. The perusal of record shows that the petitioner was initially issued with a charge-sheet on 01.02.2013 to which the petitioner has given a detailed reply. The allegation in the charge-sheet was that the petitioner while he was working as a Assistant Engineer at Bagbahara, District Mahasamund, Chhattisgarh, in the course of construction/repair work of a stop dam under the scheme of

MNREGA their were certain losses sustained and the petitioner also was responsible for the same.

4. The departmental inquiry initiated culminated in exonerating the petitioner of both the charges which were leveled against the petitioner.
5. The inquiry officer who conducted the enquiry against the petitioner clearly has given the finding in favour of the petitioner in as much as the charge No. 1, was not proved by the respondent and so far as and charge No. 2 is concerned no evidence was produced by the department to prove the charge thus, for both the charges the petitioner was exonerated.
6. In-spite of the petitioner having been exonerated from the charges leveled yet annexure P-1 was issued by the department for a recovery of an amount of Rs. 2,06,213/- from the petitioner and the appeal preferred against said order also stood rejected.
7. The contention of the petitioner is that there is no basis for the department to make such recovery from the petitioner for the simple reason that for the same allegation when an inquiry was held none of the charges could be proved thus, the petitioner prayed for quashment of the order .
8. The State counsel opposing the petition submits that so far as the inquiry is concerned the same was on the charges leveled against the petitioner which could not be established for want of sufficient evidence, however so far as loss caused to the state is considered the respondent is justified to recover the loss from the petitioner to the extent he is responsible.

9. Given the facts and circumstances in the preceding paragraphs and upon hearing the submissions put forth on either side, what clearly reveals is that so far as the question of recovery for the loss sustained by the department is concerned, it had already conducted a departmental inquiry and the result of the departmental enquiry was that of the petitioner was exonerated of the charges which were leveled against him and no punishment whatsoever was inflicted upon the petitioner. That in the given factual scenario, the issuance of the order of recovery for an alleged loss is without any basis and the same is not sustainable.
10. In view of the same, the order of recovery and the rejection of the appeal both stand set-aside/quashed and whatever amount which has been recovered/withheld by the respondents, the same shall be refunded back forthwith with interest @10% per annum preferably within a maximum period of 60 days from the date of issuance of the certified copy.
11. The writ petition accordingly stands allowed.

Sd/-
(P. Sam Koshy)
Judge