

HIGH COURT OF CHHATTISGARH AT BILASPURWRIT PETITION (S) NO. 3339 OF 2018

Sudesh Chandra Das S/o S/o Late Radhagovind Das, Aged About 54 Years R/o Village- Karli, Post- Geedam, District- Dantewada, Chhattisgarh. **... Petitioner**

versus

1. State of Chhattisgarh, through the Secretary, Home (Police) Department, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. The Company Commander, Headquarter, 9th Battalion, Chhattisgarh Arms Force, Dantewada, District- Dantewada, Chhattisgarh.
3. The Commandant, 9th Battalion, Chhattisgarh Arms Force, Dantewada, District- Dantewada, Chhattisgarh.
4. The Assistant Commandant, 9th Battalion, Chhattisgarh Arms Force, Dantewada, District- Dantewada, Chhattisgarh. **... Respondents**

For Petitioner	:	Mr. Vikas A. Shrivastava, Advocate.
For Respondent-State	:	Mr. Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

26/04/2018

1. With the consent of the learned Counsels appearing for the parties, the matter was heard finally.
2. The order under challenge in the present writ petition is Annexure P-1, dated 26.3.2018.
3. At the outset, learned Counsel for the Petitioner submits that vide the impugned order the Respondents have inflicted a punishment upon the Petitioner of recovery for an amount of Rs.7,50,000/- from his monthly salary to be recovered in 75 installments.
4. Learned Counsel for the Petitioner further submits that the impugned order is bad in law for the simple reason that the entire preliminary enquiry and the proceedings initiated for assessing the damage have been done behind the back of the Petitioner. He also submits that no departmental enquiry as such was conducted by the Respondents neither was any opportunity of defence given to the Petitioner. As such, the impugned order is per se violative of the principles of natural justice.

5. This averment of the learned Counsel for the Petitioner is not disputed by the learned State Counsel. However, learned State Counsel tried to justify the action of the Respondents on the ground that prima facie from perusal of the contents of impugned order and other record it appears that the Petitioner and other two persons were in fact responsible for the mixing of diesel with petrol and petrol with diesel in the Petrol Pump which is being operated by the police authorities. Thus, the State Counsel submits that the only action initiated is for recovery of the damage which otherwise should not be detrimental to the career of the Petitioner.

6. Given the aforesaid submissions by the learned State Counsel what clearly reflects is that, admittedly no departmental enquiry much less an enquiry giving an opportunity of hearing to the Petitioner was conducted by the Respondents. As such, the impugned order is totally violative of the principles of natural justice.

7. It is always expected from an employer that before passing of an order which has the adverse civil consequence at least an opportunity of hearing should have been granted to the Petitioner, which in the instant case has not been done.

8. Given the said facts, this Court is unable to sustain the impugned order (Annexure P-1) and the same deserves to be and is accordingly set aside. However, a liberty is reserved with the Respondent-State to proceed in accordance with law against the Petitioner and other persons responsible for the damage of loss caused to the Respondents and thereafter pass appropriate orders.

9. With the aforesaid direction/observation, the writ petition stands dispensed of.

Sd/-
(P. Sam Koshy)
Judge