

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO. 3660 OF 2018**

1. Manku Ram Telami S/o S/o Mangduram Telami, Aged About 45 Years R/o 9th Battalion Chhattisgarh Armed Force Village- Karli, District- Dantewada, Chhattisgarh.
2. Ishwar Nag S/o S/o Late Laxman Nag, Aged About 34 Years R/o 9th Battalion Chhattisgarh, Armed Force Village- Karli, District- Dantewada, Chhattisgarh.

...Petitioner(s)**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.

... Respondent(s)

For Petitioner	:	Shri Vikas Shrivastava, Advocate.
For Respondent-State	:	Shri Ashutosh Pandey, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15.05.2018**

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 Petitioners submits that vide the impugned order the Respondents have inflicted a punishment upon the Petitioners of recovery for an amount of Rs.3,75,000/- each from their monthly salary to be recovered in 75 installments.
4. Learned Counsel for the Petitioners 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 Petitioners. As such, the impugned order is per se violative of the principles of natural justice.

5. This averment of the learned Counsel for the Petitioners 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 Petitioners 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 Petitioners.
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 Petitioners were 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 Petitioners, 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 Petitioners 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