

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.10236 OF 2003

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with the order dated 14.05.2003 and to quash the same by holding it as arbitrary and illegal.

Heard Sri P.Kishore Rao, learned counsel appearing for the petitioner and Sri JogramTejavat, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that he joined as District Manager in the respondent-Corporation in the year 1984 and thereafter, he was transferred to Head Office and posted as Assistant Manager and he was discharging his duties as such. While so, the Corporation had issued a show cause notice on 15.1.2003 to submit his statement of particulars of sundry debtors from 1994-95 to 2002-03. In pursuance of the same, he submitted his explanation on 27.1.2003. Being not satisfied with the same, the respondent had passed the impugned order recovering an amount of Rs.57,595/- from the monthly salary of the petitioner from May, 2003 in ten equal monthly instalments. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contends that the petitioner had distributed the amount lying under 'sundry debtors' to the beneficiaries during 1994-95 to 1999-2000.

Learned Standing Counsel appearing for the respondent contends that those beneficiaries have not repaid the amounts to the respondent and hence, show cause notice was issued to the petitioner to submit his explanation. He further contends that the respondent had not issued any charge memo to the petitioner and since irregularity has been committed in not recovering the amounts from the beneficiaries, the impugned order was passed.

As can be seen from the record, nowhere the respondent has taken into consideration the explanation submitted by the petitioner. Moreover, the show cause notice cannot be treated as a charge memo as no disciplinary proceedings were initiated against the petitioner.

Since the respondent had passed the impugned order without taking into consideration the explanation submitted by the petitioner, and no particulars were furnished in the impugned order or in the show cause notice, the impugned order is liable to be set aside as principles of natural justice were not followed.

At the fag end, learned counsel appearing for the petitioner brought to the notice of this Court that in pursuance of the order passed by this Court on 27.05.2005, the respondent has not recovered any amount from the petitioner and during the pendency of the writ petition, the petitioner had retired from service.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that punishment of recovery of amounts can be ordered provided the respondent issued a charge sheet. Admittedly, in the instant case, no charge sheet was issued to the petitioner and in the absence of the same, the respondent ought not to have imposed the punishment *vide* impugned order dated 14.05.2003, apart from that the impugned order itself was passed without taking into consideration the explanation submitted by the petitioner, and moreover, no principles of natural justice were followed.

Accordingly, the Writ Petition is allowed and the impugned order dated 14.5.2003 is set aside.

JUSTICE ABHINAND KUMAR SHAVILI

28th September, 2018

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