

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.17346 of 2002

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus declaring the action of the 2nd respondent in issuing proceedings dated 31.05.2002 directing the 3rd respondent to effect recovery of an amount of Rs.56,698/- at the rate of Rs.1,320/- per month from the month of June, 2002 to November, 2005 and to recover balance amount of Rs.1,258/- in the month of December, 2005 from the salary of the petitioner, as illegal, arbitrary and violative of Articles 14, 19 and 21 of the Constitution of India.

Heard Mr.T.Dayananda Rao, learned counsel for petitioner and Mr.S.V.Ramana, learned Standing Counsel for APSRTC.

It has been contended by the petitioner that he was appointed as a Mechanic on 20.05.1976 and later on, he was promoted as Leading Hand and thereafter, he was promoted as Mechanical Charge Man/Deputy Superintendent. It is further submitted by the petitioner that he had applied for house building advance for a sum of Rs.75,000/- from respondents and the respondents were pleased to sanction the same vide proceedings dated 20.07.1988. It is further submitted by the petitioner that he has also availed additional house building advance for a sum of Rs.19,471/- and the respondents were pleased to sanction the same vide proceedings dated 11.01.1991. The said amounts were liable to be paid from the monthly salary of the petitioner. The petitioner submits that though the house building advance was to be deducted from the monthly salary of the petitioner, the respondents have not effected recoveries for the reasons best known to them. However, to cover up the lapse of the respondents, the respondents have issued the impugned orders wherein

the respondents have taken steps to recover the house building advance by levying penal interest. It has been contended by the petitioner that the respondents failed to recover the amount from the salary of the petitioner and it is their fault for not recovering the house building advance, but they cannot charge penal interest.

Learned counsel for petitioner contended that the petitioner is willing to repay the house building advance amount, which the petitioner has received, but his only objection is with regard to levying of penal interest.

Learned Standing Counsel contends that the excess amount of Rs.14,177/- was recovered from the petitioner since the petitioner failed to repay the house loan amount and the petitioner is duty bound to pay the instalments of house building advance. No illegality has been committed by the respondents in recovering the house building advance by levying penal interest. The respondents recovered an excess amount of Rs.14,177/- by levying penal interest. The respondents intend to refund the same, if the petitioner submits an application to that effect.

This Court, having considered the rival submissions, is of the considered view that the writ petition can be disposed of by directing the petitioner to submit representation within one week from the date of receipt of a copy of this order. Upon such representation being received, the respondents shall consider and pass orders for refunding the excess amount collected from the petitioner.

The writ petition is disposed of accordingly. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

