

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 14.03.2019
CORAM

THE HONOURABLE Mr.JUSTICE M.S.RAMESH
W.P.No.26070 of 2005
and
W.P.M.P.No.28499 of 2005

P.Rasaiah

... Petitioner

Vs

- 1.The Chief Executive Officer,
O/o, The Chief Executive Office,
"Kadhar & Grama Thozhilgal"
Kuralagam,
Chennai - 108.
- 2.The Zonal Deputy Director,
Tamilnadu "Kadhar & Grama Thozhilgal"
Kumar Nagar,
Tirupur - 3.
- 3.The Assistant Director,
"Kadhar & Grama Thozhilgal"
Avinashi Road,
Coimbatore - 18.
- 4.The Assistant Director,
Tamilnadu "Kadhar & Grama Thozhilgal"
Naimurai Kakitha alagu Complex,
Trichy Main Road,
Vadahan,
Vilupuram.
- 5.The Assistant Director,
"Kadhar & Grama Thozhilgal"
Udhagamandalam.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus, calling for the records pertaining to the letter of the 3rd respondent in Na.Ka.No.781/2004/E dated 21.04.2005 and quash the same and consequently directing the respondents to disburse the arrears of amount deducted from the petitioner's salary as contemplated in the impugned order of the 3rd respondent in Na.Ka.No.781/04/E dated 21.04.2005.

For Petitioner : Mr.S.Saravanan
For Respondents: No Appearance

O R D E R

In connection with the theft of 43 silk sarees from the sales centre of the respondents herein, the third respondent herein had directed for a recovery of sum of Rs.50,734/- from the petitioner who was employed as a Manager at the relevant point of time. It is a case of the respondents that on 30.09.2000, 43 silk sarees came to be stolen, out of which, 35 silk sarees were recovered by the police and the remaining 8 sarees were not recovered. The respondents had derived the value of the 7 sarees at Rs.50,735. Since the respondent was working as a Manager at the relevant point of time, he was mulcted with the liability.

2.It is not the case of the respondents that the petitioner herein had indulged in theft of silk sarees. On the other hand, it is their specific case that the petitioner was employed as a manager at the relevant point when the theft had occurred. On a perusal of the impugned order, it is seen that the recovery has been ordered without any prior notice, calling upon the petitioner to show cause notice as to why the recovery has not been made from his salary.

3.In the instant case, when the respondents had clearly stated in the impugned order that the silk sarees were stolen, the only overt act attributed to the petitioner herein is that, he was only employed as a Manager. There was duty caused on the respondents to consider any explanation that may be given by the petitioner with regard to the incident as well as the valuation of the loss. In the absence of any show cause notice, such an opportunity has been deprived to the petitioner. Further at the relevant point of time, the petitioner had availed leave from 14.08.2000 to 15.11.2000. To this effect it can only be said that the impugned order was passed by the third respondent in violation the basic principles of natural justice, before ordering recovery from the petitioner. On this short ground, the impugned order is liable to be set aside.

4.In the result, writ petition is allowed by setting aside the impugned order dated 21.04.2005 passed by the third respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AT

To

- 1.The Chief Executive Officer,
O/o, The Chief Executive Office,
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Kuralagam, Chennai - 108.
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Udhagamandalam.

+1 cc to Mr.S.Saravanan, Advocate Sr.No.25057

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KK(CO)
CSL/22.04.2019