

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 255 of 2014**

Salim Bax Gazi S/o K. B. Gazi, R/o Gauri Nagar, Ward No. 12,
Rajnandgaon, Civil & Revenue District Rajnandgaon (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through the Director, Veterinary Services, in front of Guru Teg Bahadur Garden, G.E. Road, Raipur (CG)
2. Deputy Director, Veterinary Services, Rajnandgaon (CG)
3. Deputy Director, Veterinary Services, Government Cattle Breeding Farm, Anjora, District Durg (CG)

---- Respondents

For Petitioner	:	Mr. Abhishek Sharma, Advocate
For State	:	Mr. Rahul Jha, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****21.01.2021**

1. The challenge in the present writ petition is to the order of recovery dated 01.05.2013 (Annexure P-1) whereby the respondent no.2 has ordered for recovery of Rs.49,904/- in 12 installments from the salary payable to the petitioner.
2. The facts in brief are that the petitioner was working as an Attendant under the respondents. The petitioner was initially posted at Salhewara from where he was vide order dated 05.05.2010 posted at Kanharpuri. After about two years period, vide order dated 01.10.2012

the petitioner was ordered to be posted at Handitola from Kanharपुरi and for which the petitioner was also relieved vide order dated 16.10.2012.

3. According to the petitioner, though he was relieved from Kanharपुरi to Handitola vide order dated 16.10.2012, the officers at Kanharपुरi, at that point of time, insisted that for some more time the petitioner should discharge his duty at Kanharपुरi and as per their direction, the petitioner had discharged his duty at Kanharपुर and had also received salary for the relevant period. However, abruptly the impugned order Annexure P-1 was passed seeking for recovery of an amount of Rs.49,904/- from the salary payable to the petitioner alleging that the petitioner has not worked at the place of posting.
4. The writ petition was filed as early as on 12.01.2014. Though there was no interim order granted by this Court, counsel for the petitioner submits that except for two installments recovered from the petitioner no further deductions have been made and the petitioner has till date received the normal salary.
5. The challenge to the impugned recovery order is on the ground that the same has been issued without conducting any sort of inquiry by the respondents. The contention of the petitioner is that it is not a case where the petitioner was unauthorizedly absent from his duty rather it is a case where the petitioner had discharged his duty all along which could be easily verified. Counsel for the petitioner submits that during the said period, the petitioner had discharged his duty at Kanharपुरi at the instruction of his superior officers which again could have been verified and therefore, the petitioner cannot be denied salary for the

said period. Thus, prayed for setting aside of the impugned order of recovery.

6. State counsel however opposing the writ petition submits that since from the record it appears that the petitioner stood relieved from Kanharpuri to joint at Handitola on 16.10.2012 and he had also joined at Handitola and thereafter the petitioner had not worked at Handitola. When this fact came to the notice of the higher authorities, the impugned order was passed. Thus, it cannot be said that the impugned order is bad to that extent. According to the State counsel, once the petitioner has not discharged his duty during the relevant period, he would not have entitled for salary also for the said period and therefore, the impugned order of recovery does not warrant any interference.
7. All said and done, admittedly the case does not seem to be one where the allegation is against the petitioner of being unauthorizedly absent from duty. Even otherwise it ought to have been got verified as to whether the petitioner had in fact discharged his duty during that period either at Handitola or Kanharpuri. Without any inquiry if an order of recovery of more than Rs 4000/= a month for a year would be too harsh a decision that too against a low paid Class-IV employee whose salary itself was around Rs.8,000/- a month. The same since it was without conducting any inquiry, would be per se bad in law, illegal and deserves to be set aside. Accordingly, the impugned order Annexure P-1 stands set aside.
8. While setting aside the order of recovery, the right of the respondents stands reserved to get the matter verified, if they so want. On due

verification and after inquiry if it is found that the petitioner in fact had not discharged his duty both at Handitola or at Kanharapur during the relevant period i.e. from November, 2012 to February, 2013, appropriate decision be taken by the respondents in accordance with the rules governing the field.

9. With the aforesaid observation the writ petition stands allowed and disposed of.

**Sd/-
P. Sam Koshy
Judge**