

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14572 of 2010

Ganapati Purahit

..... Petitioner

Mr. P.K. Rath, Advocate

-versus-

Food Corporation of India and others Opposite Parties

Er. N.K. Mohanty and Associates, Advocates
for Opposite Parties 3, 4 and 6

**CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK**

ORDER

16.03.2022

Order No.

09. 1. The challenge in the present petition by a former employee of the Orissa State Ware Housing Corporation (OSWC), Titlagarh (Opposite Party Nos.3, 4 & 6) is to an order dated 18th June, 2010 issued by the OSWC informing the Petitioner that orders have been passed by the competent authority to recover a sum of Rs.3,69,608/- from the Petitioner "towards the transit loss value pertaining to Bolangir Warehouse" and accordingly a sum of Rs.3850/- had been deducted from the monthly salary of the Petitioner for May, 2010. The balance amount was to be recovered in terms of a separate memorandum dated 3rd June, 2010, which has also been challenged in this petition.
2. While directing notice to issue in the present petition on 21st September, 2010, the Court directed the Opposite Parties not to effect any recoveries pursuant to the aforementioned orders dated 18th June, 2010 and 3rd June, 2010.

3. The short ground on which the impugned orders have been challenged is that they are in violation of the principles of the natural justice. The orders tantamount to a punishment inflicted on the Petitioner without instituting any inquiry and without even a show cause notice (SCN).

4. In the counter affidavit filed on behalf of the OSWC, it is stated that the Assistant General Manager (Vigilance) of the Food Corporation India (FCI) had addressed a letter to its Area Manager at Titlagarh regarding higher transit losses in respect of thirty-two wagons loaded from OSWC, Bolangir. Enclosed with the counter affidavit is a letter addressed by the Zonal Manager, Titilagarh Zone to the Superintendent, OSWC, Bolangir stating that in view of the transit loss, FCI deducted Rs.4,14,724/- from the OSWC's storage charge bills towards cost of excess transit loss beyond 0.360%. Consequently, the Superintendent, OSWC was asked to deposit the above amount in the OSWC's account immediately.

5. The counter affidavit is, however, silent on whether any SCN was issued to the Petitioner prior to effecting recoveries from his monthly salary and prior to issuing the order directing the aforementioned sum of Rs. 3,69,608/- to be recovered from him. In other words, there is no denial by the OSWC of the fact that prior to issuing the impugned orders, no SCN was in fact issued to the Petitioner. Consequently, the Court has no difficulty in coming to the conclusion that the impugned orders are in violation of the principles of natural justice and are therefore, unsustainable in law.

6. Mr. P.K. Rath, learned counsel for the Petitioner, points out that on account of pendency of the present petition and the recovery proceedings, none of the retiral dues has been paid to the Petitioner despite his having superannuated on attaining the age of 60 years.

7. The Court directs that the retiral dues should no longer be withheld on the Petitioner and will be paid to him at the earliest by the OSWC and in any event not later than 2nd May, 2022. It is clarified that the present order will not prevent the OSWC from proceeding in accordance with law by conducting a proper inquiry after issuing SCN to the Petitioner for recovery of the aforementioned sum.

8. The petition is disposed of in the above terms.

9. Issue urgent certified copy of this order as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda