

**(2018) 05 CHH CK 0132**

**Chhattisgarh High Court**

**Case No:** Writ Petition (S) No. 3660 Of 2018

Manku Ram Telami And Ors

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

**Date of Decision:** May 15, 2018

**Hon'ble Judges:** P. Sam Koshy, J

**Bench:** Single Bench

**Advocate:** Vikas Shrivastava, Ashutosh Pandey

**Final Decision:** Disposed Of

**Judgement**

P. Sam Koshy, J

1. With the consent of the learned Counsels appearing for the parties, the matter was heard finally.

2. The order under challenge in the present writ petition is Annexure P-1, dated 26.3.2018.

3. At the outset, learned Counsel for the Petitioners submits that vide the impugned order the Respondents have inflicted a punishment upon the

Petitioners of recovery for an amount of Rs.3,75,000/- each from their monthly salary to be recovered in 75 installments.

4. Learned Counsel for the Petitioners further submits that the impugned order is bad in law for the simple reason that the entire preliminary enquiry

and the proceedings initiated for assessing the damage have been done behind the back of the Petitioner. He also submits that no departmental enquiry

as such was conducted by the Respondents neither was any opportunity of defence given to the Petitioners. As such, the impugned order is per se

violative of the principles of natural justice.

5. This averment of the learned Counsel for the Petitioners is not disputed by the learned State Counsel. However, learned State Counsel tried to justify the action of the Respondents on the ground that *prima facie* from perusal of the contents of impugned order and other record it appears that the Petitioners and other two persons were in fact responsible for the mixing of diesel with petrol and petrol with diesel in the Petrol Pump which is being operated by the police authorities. Thus, the State Counsel submits that the only action initiated is for recovery of the damage which otherwise should not be detrimental to the career of the Petitioners.

6. Given the aforesaid submissions by the learned State Counsel what clearly reflects is that, admittedly no departmental enquiry much less an enquiry giving an opportunity of hearing to the Petitioners were conducted by the Respondents. As such, the impugned order is totally violative of the principles of natural justice.

7. It is always expected from an employer that before passing of an order which has the adverse civil consequence at least an opportunity of hearing should have been granted to the Petitioners, which in the instant case has not been done.

8. Given the said facts, this Court is unable to sustain the impugned order (Annexure P-1) and the same deserves to be and is accordingly set aside.

However, a liberty is reserved with the Respondent-State to proceed in accordance with law against the Petitioners and other persons responsible for the damage of loss caused to the Respondents and thereafter pass appropriate orders.

9. With the aforesaid direction/observation, the writ petition stands dispensed of.