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**(2015) 06 KAR CK 0143**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 1152 of 2014 (S-RES)**

N. Bheema Reddy

APPELLANT

Vs

The Managing Director, Karnataka State Forest Industries  
Corporation Limited and Others

RESPONDENT

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**Date of Decision :** 11-06-2015

**Acts Referred:**

**Citation :** (2015) 06 KAR CK 0143

**Hon'ble Judges :** R.S. Chauhan, J

**Bench :** Single Bench

**Advocate :** V.S. Naik, for the Appellant

**Final Decision :** Allowed

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## Judgement

Raghvendra S. Chauhan, J.

1. With the consent of learned Counsel for the parties, this case is being decided at this stage itself.
2. The Petitioner, Mr. N. Bheema Reddy, is aggrieved by the order dated 17.4.2013 passed by the Respondent No. 3, whereby the respondent has directed recovery of a sum of Rs. 7,59,493/- from the petitioner, ostensibly on the ground that he has caused financial loss to the Department.
3. The brief facts of the case are that on 24.4.1980 the petitioner was appointed as a daily wage worker in the Karnataka State Forest Industries Corporation Limited [The Corporation" for short]. By order dated 23.4.1986, his services was regularized as Logging Assistant in the cadre of Junior Assistant with effect from 1.1.1986. However, by order dated 21.6.2010, the petitioner was suspended ostensibly on the ground that a Departmental Enquiry is contemplated against him, as there was allegation that he has committed acts of negligence in the logging supervision assigned to him. However, despite lapse of many years, no charge was framed against him. Subsequently, by order dated 22.11.2010, the order of suspension was revoked, and petitioner was taken back on work.

Immediately after being taken back, by order dated 27.11.2010, the petitioner was transferred from Shivamogga Unit to Mangaluru Unit. He was issued show cause notice dated 26.11.2010 alleging that out of the firewood billets manufactured in the Yedadanti forest under the supervision of the petitioner, he had misused 42.300 Metric Tonnes of firewood and 16.900 Metric Tonnes of billets. The said show cause notice was served upon the petitioner on 13.12.2010. The petitioner sought some time to file his reply to the said show cause notice. Eventually, he did file his reply. However, he never heard anything from the respondents. Therefore, when he received the order dated 17.4.2013 directing him to remit a sum of Rs. 7,59,493/-, he was rather surprised as neither any charge sheet had been submitted to him, nor any departmental enquiry had been initiated, and yet he was directed to reimburse a large amount of money to the Department. Hence, the petitioner has challenged the said order before this Court.

4. The learned Counsel for the petitioner has vehemently contended that the order of recovery of the said amount could not have been made de hors procedure established by law. Until and unless, the misconduct of the petitioner is proven in a departmental enquiry, the respondents are not justified in recovering the said amount from the petitioner.

5. In all fairness, the learned Counsel for the respondents has conceded that prior to passing the order, in fact no charges had been framed against the petitioner, it is only recently that charge sheet had been framed, Enquiry Officer has been appointed and charge sheet has been replied to. Therefore, the Departmental Enquiry has commenced only recently. But no departmental enquiry existed when the impugned order was passed.

6. Heard the learned Counsel for the parties and perused the impugned order.

7. It is trite to state that the impugned order could not be passed against the petitioner until and unless an opportunity of hearing was granted to him, and department comes to the conclusion that the petitioner has committed a misconduct. To direct recovery of amount prior to holding a departmental enquiry is placing the cart before the horse. Such a course of action is obviously without any legal basis and cannot be upheld.

8. Therefore, for the reasons stated above, this Court sets aside the order dated 17.4.2013 passed by the respondents and directs the respondents to deposit the amount, so far recovered from the petitioner, in a fixed deposit with the Nationalized Bank for a period of one year and to be renewed yearly thereafter. Moreover, the respondents should not recover any further amount from the petitioner's salary until the Departmental Enquiry is completed.

9. With these directions, this writ petition is hereby allowed.