

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10506 of 2015

1. Janardan Prasad Ex. Manager (Accounts) S/o Late Shiv Ratan Prasad, Resident of village Phokharbhinda, P.O. Sasamusa, District- Gopalganj.

.... Petitioner/s

Versus

1. The Food Corporation of India Through Managing Director, F.C.I., New Delhi.
2. The Executive Director (EZ), Road Corporation of India, Zonal Office(e), Kolkata. null null
3. The General Manager (Region), Food Corporation of India Regional Office, Arunachal Building, Exhibition Road, Patna.
4. The Assistant General Manager (Vig) Road Corporation of India, Regional Office, Patna.
5. The Area Manager, Food Corporation of India, District Office, Muzaffarpur.
6. The Manager (Pers./Acs/person/legal) Food Corporation of India, district Office Muzaffarpur.
7. The Manager (Accounts) Food Corporation of India, District Office, Muzaffarpur.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Adv.

For the Respondent/s : Mr. Prabhakar Tekriwal, Adv.

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 22-07-2015

I have heard the parties.

The petitioner seeks quashing of the order dated 24.09.2014 passed by the Disciplinary Authority by which it has inflicted following punishments :

“Now, THEREFORE, THE UNDERSIGNED, being the Disciplinary Authority in exercise of the powers conferred under Regulation-56 of FCI (Staff) Regulations, 1971 hereby impose the following penalties under Regulation-54 of FCI (Staff) Regulations, 1971 (as amended) upon the aforementioned Cos:

1. **Shri Janardan Prasad, Manager(A/Cs): Recovery of Rs. 2,00,000/- (Rupees Two Lakhs only) from the Terminal Benefits of Shri Janardan Prasad, Manager (A/Cs) [now retired], EXCLUDING GRATUITY.**

2. X X X X X

In case the aforementioned employees are aggrieved with the above decision, a statutory Appeal shall lie with the Managing Director, FCI Hqrs. New Delhi within a period of 45 (Forty-five) days from the date of delivery of this order.

X X X X

It appears from the impugned order itself that there is a provision of statutory provision of appeal which is available before the Managing Director, F.C.I, New Delhi.

It has been pointed out by the learned counsel appearing for the F.C.I that the petitioner has moved this Court without adhering the opportunity of statutory remedy of appeal.

On such submission having been made, learned counsel for the petitioner submits that the writ petition may be disposed off granting liberty to the petitioner to avail the statutory remedy of appeal. It has further been urged that in the meantime a direction be issued to the authorities to make payment of terminal benefits of the petitioner after deducting Rs. 2 lacs as per the order of punishment. After such deduction, if some amount is still found due to be paid to the petitioner then that should be paid.

It has been stated on behalf of the F.C.I. that a writ petition being C.W.J.C No. 927 of 2015 has been filed by it against the order of Regional Labor Commissioner directing payment of gratuity to the petitioner which is still pending.

Having regard to the aforementioned circumstances, the writ petition is disposed off with the following directions.

- i. Petitioner would be at liberty to avail statutory remedy of appeal. If such appeal is filed within a period of six weeks from today then the same will be decided by the competent authority on its own merit and in accordance with law.
- ii. The respondents authority would calculate the terminal benefits of the petitioner except gratuity after deducting Rs. 2 lacs as directed by the disciplinary authority and make payment of rest of the amount, if any, found to be due within a period of four weeks. The deduction of Rs. 2 lacs, as per the direction of the disciplinary authority, would be subject to the result of final judicial pronouncement in appeal or any competent forum. Issue of payment of gratuity is to be decided in C.W.J.C No. 927 of 2015.
- iii. The amount, if found due, against the head of leave travel concession of the petitioner which is admittedly not a part of the terminal benefit rather

it is an amount which is due as arrear, should be paid to the petitioner after necessary calculation within a period of six weeks from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

Prakash/-

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