

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) No. 8739/2014

%

30th January, 2015

R.S.PANWAR

..... Petitioner

Through: Mr. Kartickay Mathur, Adv.

versus

THE FOOD CORPORATION OF INDIA & ANR.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This writ petition under Article 226 of the Constitution of India is filed by the petitioner, the erstwhile employee of respondent No.1-Food Corporation of India, basically impugning the order of the employer dated 8.11.1996 whereby, the petitioner was imposed the punishment of demotion to the post of Assistant Manager (General) at the lowest grade applicable to the said post with effect from 8.11.1996. This order dated 8.11.1996 was passed by the Disciplinary Authority. The Appellate Authority vide its order dated 9.5.1997 dismissed the appeal of the petitioner.

2. The petitioner challenged the orders of the Departmental Authorities before the Punjab and Haryana High Court by filing a writ petition being W.P.(C) No. 9463/1997 and this writ petition vide order dated 19.12.2007 was directed to be treated as a suit, and consequently, the disputes with respect to challenge to the orders passed by the Departmental Authorities were tried in the suit. This civil suit was decided against the petitioner vide a judgment dated 10.03.2008. The petitioner preferred a first appeal against the said judgment before the Additional District Judge, Chandigarh, being Civil Appeal No. 91/2008, who partly allowed the appeal and modified the order passed by the department and held that only a major penalty could have been imposed. The petitioner challenged the order of the Additional District Judge before the Punjab and Haryana High Court by filing a Regular Second Appeal No.400/2008, and the respondent No.1/employer also filed a cross-appeal being Regular Second Appeal No.1898/2009, and both the appeals were dismissed by the High Court vide its order dated 8.3.2010. The cross SLPs filed by both the parties against the order of the High Court dated 8.3.2010 were dismissed by the Supreme Court on 8.7.2010.

3. In my opinion, therefore, the disputes which arose with respect to challenge by the petitioner to the orders passed by the Departmental

Authorities achieved finality in view of the decisions of the civil courts. A decision of the civil court operates as *res judicata*. The Doctrine of *res judicata* is to ensure that matters are not repeatedly re-agitated and there should be finality with respect to disputes.

4. The petitioner after not succeeding in the civil courts, which continued from the original stage to the stage of first appeal, second appeal and then the Supreme Court, thereafter filed a review petition before the Board of Directors of the respondent no.1 on 28.3.2011. Since this review petition was not being decided, the petitioner approached this Court by filing a writ petition being W.P.(C) No.3522/2012 and this Court directed the respondent no.1 to dispose of the review petition. The Board of Directors in the review petition have rejected the claim of the petitioner and confirmed the decisions passed by the Departmental Authorities.

5. In my opinion, the filing of the review petition by the petitioner before the Board of Directors was itself flawed because the Board of Directors of the respondent no.1 had no authority or jurisdiction to set aside the judgments passed by the civil courts and which had attained finality on the SLPs filed by both the parties being dismissed by the Supreme Court. The doctrine of *res judicata* cannot be washed away by the petitioner simply on

the ground that Board of Directors have taken a fresh decision dated 22.11.2012 and which is sought to be questioned in the present writ petition.

6. The review petition filed by the petitioner before the Board of Directors in accordance with the rules would have been maintainable only if the review petition was immediately filed after the decision of the appellate authority on 9.5.1997, however, once civil suit is thereafter filed challenging the orders of the departmental proceedings and the petitioner is not successful in the civil proceedings right till the Supreme Court, the doctrine of *res judicata* has to necessarily come into play and the same will prevent not only filing of the review petition by the petitioner and nor will the same give any ground to the petitioner to question the decision now passed by the Board of Directors of the respondent No.1 on 22.11.2012, rejecting the review petition filed by the petitioner.

7. The writ petition is therefore dismissed.

JANUARY 30, 2015
srb

VALMIKI J. MEHTA, J.