

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 1607 of 2014

IN

Civil Writ Jurisdiction Case No 1447 of 2012

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1. The Bihar State Food & Civil Supplies Corporation Ltd, Sone Bhawan, 5th Floor, Birchand Patel Path, Patna through its Managing Director
 2. The Managing Director, Bihar Sate Food & Civil Supplies Corporation Ltd, Sone Bhawan, 5th floor, Veer Chand Patel Path, Patna
 3. The Chief of Administration, Bihar State Food & Civil Supplies Corporation Ltd Sone Bhawan, 5th floor, Veer Chand Patel Path, Patna
 4. The Chief of Procurement, Bihar State Food and Civil Supplies Corporation Ltd, Sone Bhawan, 5th Floor Veer Chand Patel Path, Patna

.... Appellant/s

Versus

1. Suresh Kumar Mallick, Son of Late Chandradeo Prasad Mallick, Resident of Village - Manika, P.O.- Akhtiyarpur, P.S.- Sarairanjan, District - Samastipur presently residing at Mohalla Kashipur Sonbarsa, P.S. AND District- Samastipur and at present retired Assistant Accounts Officer in the Office of District Food and Civil Supplies.
2. The State of Bihar through the Principal Secretary, Department of Food & Consumer Protection Department, Govt. of Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Shailendra Kumar Singh, Advocate

For Respondent No 1 : Mr Nityanand Mishra, Advocate

For the S t a t e : Mr Shiv Kumar, AC to GA 7

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

&

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 09-02-2016

The respondents are in intra-Court appeal against the judgment and order dated 11.04.2014 passed in CWJC No 1447 of 2012 passed by the learned Single Judge. The writ petitioner is

respondent No 1 to this appeal. He has since appeared.

2 It may be noted that against the judgment and order under appeal, due to inadvertence, two Letters Patent Appeals were filed being LPA No 1607 of 2014 and LPA No 1495 of 2014 and, as per order dated 02.09.2015 passed in LPA No 1495 of 2014, the said Letters Patent Appeal, in view of the aforesaid duplicity, was permitted to be withdrawn and dismissed as such.

3 The present Letters Patent Appeal was admitted for final hearing vide order dated 10.03.2015 and an ad interim stay of the judgment under appeal was granted. The writ petitioner/respondent No 1, appearing in this appeal, has filed IA No 5577 of 2015 for vacating the stay. We are of the considered opinion that, instead of hearing the matter on stay and leaving the matter to be decided later on, it would be, in larger interest, to decide the matter as a whole on merit with consent of parties. With consent of parties, we do so.

4 The writ petitioner/respondent No 1 was Assistant Accounts Officer at Gopalganj under the Bihar State Food and Civil Supplies Corporation Limited (for brevity, *the Corporation*). An inspection was conducted on 11.03.2007 and allegedly, huge stocks of foodgrains were found missing. A departmental proceeding was, inter alia, initiated against the writ petitioner with three charges. (1) He had taken a godown on rent without permission or authorization. (2)

He had not maintained accounts properly resulting in loss of foodgrains through misappropriation of about Rs 49 lacs. (3) He conspired with an Assistant Godown Manager in these activities.

5 Upon enquiry, being conducted in the disciplinary proceeding, the Enquiry Officer held that charges were partly correct and established. When the matter reached the Disciplinary Authority, that is the Managing Director of the Corporation, he disagreed with the report of the Enquiry Officer and noted his disagreement in a file and issued notice to the writ petitioner/respondent No 1. The writ petitioner/respondent No 1 responded bringing to the notice of the Managing Director that, being merely an Assistant Accounts Officer, he had no responsibility and/or authority in regard to taking of godown on rent or paying rent thereof. It was done by the Assistant Godown Manager and he, being Assistant Accounts Officer only, could not challenge the authority of the Assistant Godown Manager. With regard to discrepancy, he pointed out that long before the inspection was done, he had already relinquished the charge of the godown and had been transferred. He, thus, could not be held to be responsible for any shortage. He denied the allegation in respect of conspiracy.

6 Though the learned Single Judge has noted that the note of dissent was not shown to the writ petitioner, in the order of the

learned Single Judge, it is noted that the note of dissent by the Managing Director to the report of the Enquiry Officer was duly shown and supplied to the writ petitioner. This part of the order of the learned Single is, thus, not correct.

7 The writ petitioner then filed an appeal before the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna. The writ petitioner again brought these facts to his notice and noticing this fact, the Principal Secretary reduced the punishment to mere deprivation of two increments with cumulative effect substantially reducing the punishment, as awarded by the Disciplinary Authority. It is these orders that have been challenged in the writ petition.

8 The learned Single Judge, in our view, has rightly held that, all that the writ petitioner had been saying, was not even referred to by the Disciplinary Authority. The order of Disciplinary Authority is non-speaking order. We agree. For a quasi judicial order to be a speaking order, it must show the rational nexus between facts found and the decision arrived. Those rational connections are reasons. An order, without reason, is, thus, a non-speaking order and would be an order passed in violation of principles of natural justice, speaking order being one of the facets of natural justice. We agree, in the facts and circumstances noted above, that the learned Single Judge

committed no error either of fact or of law to compel us to intervene
moreso in the fact that the writ petitioner has since superannuated
with effect from 31.12.2010 and we would not like to prolong his
agony any further.

9 This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

M.E.H./-

(Nilu Agrawal, J)

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