

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9256 of 2014

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1. Umesh Kumar Tiwary son of Shri Damodar Tiwary resident of village Pratappur,
P.O. Pratappur, Police Station Awatar Nagar, District - Saran, Chapra.

.... Petitioner

Versus

1. The Food Corporation of India through the Chairman 16-20 Barakhambha Lane,
New Delhi.
2. The Chairman Food Corporation of India Barakhambha Lane, New Delhi.
3. The Managing Director, Food Corporation of India, Head Quarters 16-20, Bara
Khambha Lane, New Delhi.
4. The Executive Director, (East Zone), Food Corporation of India, 10A Middleton
Row, Kolkata - 71.
5. The General Manager, (Region), Food Corporation of India, Arunachal
Building, Exhibition Road, Patna.
6. The Area Manager, Food Corporation of India, Firdaus Building, Exhibition
Road, Patna.
7. Mr. B.S. Chahal (Retd. Dy. General Manager, F.C.I.), Enquiry Officer, House
No. 117, Phase IV, Sasnagar, Mohali (Punjab), Pin 160059.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Rajendra Singh, Sr. Advocate Mr. Mukesh Kumar Singh
For the Respondents	:	Mr. Prabhat Kumar Verma, Sr. Advocate Mr. Suman Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 30-08-2018

Heard learned Senior Counsel for the petitioner as well as learned
Senior Counsel appearing on behalf of the respondent Corporation.

2. Under charge memo, dated 19.7.2011, the petitioner was
proceeded against for alleged shortage in stock of food grains in the
shed/godown of Depot where the petitioner was Manager. The shortage is
huge and shocking. The details of the shortage contained in charge memo
is quantified to the tune of Rs. 3,15,05,529/-. The petitioner has been
proceeded against in a duly constituted proceeding wherein the petitioner
has raised his defence that at the time he had been posted In-charge of the
FSD Buxar, as its Manager; under two communications, dated 26.12.2009
and 29.12.2009, he had raised objection regarding the manner in which the



food grains were being stored in the godown. Referring to the said two communications, it is submitted by learned Senior Counsel for the petitioner that the condition of the godown was such that damage to food grains was inevitable. It would be relevant to notice here that there is no allegation regarding any damage to food grains. But allegation is shortage of physical stock. He has also raised objection in the said two communications that the Shed In-charge for some reason or the other has not handed over the stock position after its physical verification.

3. From the communications, it appears that actually the petitioner had not assumed charge of the stock claiming that physical verification was required to be done prior to his taking over charge of the stock. It is submitted that since the charge of stock position was never assumed by the petitioner at the time of joining, he cannot be held responsible for the shortage of food grains. It is also his submission that being the Manager he was not directly responsible for the stock position as the same was the direct responsibility of the Shed In-charge.

4. By making these two basic submissions, the petitioner has tried to impress upon the Enquiry Officer that he cannot be held responsible for the shortage that has occurred. The defence of the petitioner was to the extent that he was not responsible for the same in view of the submissions noticed hereinabove.

5. It is apparent from the enquiry report itself that the petitioner himself has submitted before the Enquiry Officer in the proceeding that quarterly physical verification as well as annual physical verification was being conducted as per FCI instructions and that up till quarterly physical verification conducted in December 2010, no shortage was detected. Such a submission made by the petitioner in the enquiry, which has been recorded in the enquiry report, is contradictory to the stand taken by the petitioner in the instant proceeding that no physical verification of the stock was done after his joining in the year 2009. Therefore, the submission regarding the petitioner not being responsible for the stock position also appears to be unfounded.



6. Learned Senior Counsel appearing on behalf of the Corporation has referred to the Manual wherein various responsibilities of the officials have been assigned, which is annexed to the writ petition itself. Chapter 15 of the Manual deals with the duties and responsibilities of the officials. Clause 15.4 of the said Manual specifically deals with the duties and responsibilities of the Assistant Manager (Depot), which was redesignated as Manager Depot way back on 6.6.2005 by making an amendment to the Food Corporation of India (Staff) Regulation 1971. Clause 15.4 in the present context, subsequent upon the amendment of the designation, deals with the duties and responsibilities of the petitioner for the period that he was posted as FSD Buxar, as its Manager Depot in the year 2010.

7. By placing various duties and responsibilities which have been specified in the said Manual, it is submitted by the learned Senior Counsel for the Corporation, that by no stretch of imagination the petitioner can escape from his responsibility as a Manual contemplated a comprehensive responsibility. Manager was responsible for all activities, including stock position of the godown under his control.

8. Learned Senior Counsel appearing for the respondent Corporation has laid specific emphasis on Clause (vii), (viii) and (ix) of Clause 15.4 of the said Manual to show that the petitioner was also responsible for physical verification of all stock in his charge. He was also to record a certificate regarding the verification in the godown ledgers.

9. This responsibility of the petitioner with reference to the stock in question cannot be denied. The petitioner has been afforded due opportunity in the proceeding before the Enquiry Officer in as much as evidence of prosecution witnesses was recorded and the petitioner has been allowed opportunity to cross-examine the prosecution witnesses. The fact that there is shortage in the stock has not been disputed. Only the responsibility of the petitioner, more specifically with reference to his communications at the time of his joining in December 2009, have been relied upon to disown the allegation/liability and challenge to the findings have been made mainly by submitting as aforesaid.



10. The said submission of the learned Senior Counsel for the petitioner are not tenable.

11. Lastly the learned Senior Counsel for the petitioner submits that a bare perusal of the enquiry report, the order of the disciplinary authority, order of the appellate authority as well as revisional authority will show that the petitioner was at best alleged to have failed in discharging his duties and responsibility as the Manager (Depot).

12. This Court would find that entire aspect has been considered by the authorities. The petitioner failed to discharge his duties, as stated hereinabove, and has brought about a situation that there has been huge loss of food grains which were stored in the depot for the benefit of the public at large. Such a dereliction in duty cannot be countenanced. The petitioner, in view of the duties and responsibilities assigned under the Manual referred to hereinablve, cannot absolve himself of the allegations leveled against him.

13. The order of the disciplinary authority, dated 24.7.2012, is a duly considered order after considering the petitioner’s show cause. The order of the appellate authority, dated 1.5.2013, as well as the revisional authority, dated 21.1.2014, are well considered and reasoned orders. Otherwise also no procedural defect is made out in the enquiry. There is no occasion for this Court to interfere with the findings/punishment awarded to the petitioner, more so in the light of limitation of judicial review in respect of disciplinary proceeding as recently reiterated by the Hon’ble Apex Court in the case of Union of India vs. P. Gunasekaran, (2015) 2 SCC 610.

The writ petition is dismissed.

Snkumar/-

(Madhuresh Prasad, J.)

AFR/NAFR	NAFR
CAV DATE	N/A
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