

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 13785 of 2014

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Kameshwar Singh Son of Late Ram Singasan Singh resident of Village-
Basauri, Via- Piro, P.S. Sikrahta, District- Bhojpur.

... .. Petitioner/s

Versus

1. The Food Corporation Of India through its Managing Director, Bara Khamba Road, New Delhi
2. Executive Director (East Zone) Food Corporation of India, Zonal Office (East), 10-A, Middleton Row, Kolkata
3. General Manager (R), Food Corporation of India, Exhibition Road, Patna.
4. Area Manager, Food Corporation of India, District Office, Exhibition Road, Patna.
5. Manager (D) Food Corporation of India, Food Storage, Depot, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Shiv Kumar, Advocate
For the Respondent/s : Mr Prabhakar Tekriwal, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 20-08-2019

Heard learned counsel for the petitioner and the respondent-State.

2 The petitioner was posted as Assistant Grade – I (D) attached to Shed No II of the Food Storage Depot at Buxar. Some shortage was detected at the said Shed. Petitioner has been saddled with a liability on account of loss arising from such shortage for which Rs 2 lacs are said to be recoverable from the petitioner. The recovery has been directed by the General



Manager (R) of the respondent-Corporation by his Letter dated 26.03.2012.

3 Mr Shiv Kumar appearing for the petitioner submits that the punishment is based on surmises and conjectures. The Enquiry Officer, in his report dated 16.02.2012, has clearly held that the petitioner could not be fastened the liability since he was posted there only on 03.12.2010 and retired from his services on 31.03.2011. The Disciplinary Authority has disagreed with the said findings by recording reasons that the petitioner had been signing “M” Forms and Gate Passes for the issue of stock from Shed No II from 03.12.2010 till February, 2011. After submission of petitioner’s response to the second show cause notice disagreeing with the findings of the Enquiry Officer, the order of compulsory retirement and recovery of Rs 2 lacs has been issued by way of punishment against the petitioner on 26.03.2012. The petitioner was aggrieved by the said order and had approached this Court earlier. The writ petition was numbered as CWJC No 21111 of 2012. On 09.04.2013, the same was disposed of to avail the remedy of appeal. The Appellate Authority has also upheld the punishment of the Disciplinary Authority.

4 On going through the records, this Court would find that disagreement with findings of the Enquiry Officer is only on



the ground that petitioner had been issuing Gate Pass and signing on “M” forms from 03.12.2010 till February, 2011. The order of punishment as well as order of the Appellate Authority, however, has not quantified the effect of issuance of Gate Pass and signing on “M” forms in the said limited period by the petitioner so as to assess the loss arising on account thereof. The recovery of Rs 2 lacs, therefore, is without any basis. The quantification with respect to the said period has not been done by the Authorities.

5 Mr Prabhakar Tekriwal appearing for the respondent-Corporation submits that the petitioner has remedy by way of Review Application before the Managing Director of the Corporation.

6 Since such objection has been raised by the respondent-Corporation, this Court would grant liberty to the petitioner to submit his Review Application before the Managing Director of the Corporation within four weeks from today.

7 The Managing Director should call for the records and allow the petitioner’s representative to examine the same so as to ascertain the liability of the petitioner, if any for the limited period between 03.12.2010 to February, 2011.

8 It is submitted by the petitioner’s counsel that the petitioner is now almost bed ridden and unable to proceed



personally in the matter, therefore, liberty is being granted that he may be granted representation in the Review Application before the Managing Director.

9 The issue should be examined expeditiously without any undue delay and preferably within eight weeks from the date of submission of Review Application.

10 It is made clear that if proper quantification, after due opportunity to the petitioner through his representative, is not done within the aforesaid period of eight weeks, the Authorities would refund the recovered amount to the petitioner.

11 Since the objection regarding maintainability of remedy of Review Application has been raised by the learned counsel for the Corporation, this Court would direct that the Managing Director should consider the petitioner's Review Application on merits without raising the issue of the same being barred by delay, if filed within four weeks.

12 Writ petition stands disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2019
Transmission Date	NA

