

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13681 of 2011

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LALA NAND KUMAR S/O Late Ram Chandra Prasad At And P.O.-
Rahmatpur Via Distt.- Samastipur, Presently R/O Moh.- Hanuman Nagar
Mahabir Nagar, P.O.- Hanuman Nagar, Police Station- Kankarbagh, Distt.-
Patna

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS
2. The Bihar State Food And Civil Supplies Corporation Ltd. Through Its
Chairman, Sone Bhawan, Bir Chand Patel Marg, Patna
3. The Managing Director, The Bihar State Food And Civil Supplies
Corporation Ltd., Sone Bhawan, Bir Chand Patel Marg, Patna
4. The Chief Administration The Bihar State Food And Civil Supplies
Corporation Ltd., Sone Bhawan, Bir Chand Patel Marg, Patna
5. The Chief Claim, The Bihar State Food And Civil Supplies Corporation
Ltd., Sone Bhawan, Bir Chand Patel Marg, Patna
6. Chie Procurement Cum Conducting Officer, The Bihar State Food And Civil
Supplies Corporation Ltd.,
7. District Manager, The Bihar State Food And Civil Supplies Corporation
Ltd., Sone Bhawan, Bir Chand Patel Marg, Patna
8. District Magistrate, Bihar State Food And Civil Supplies Corporation Ltd.,
Muzafarpur
9. District Manager, Bihar State Food And Civil Supplies Corporation Limited,
Darbhanga
10. District Manager, Bihar State Food And Civil Supplies Corporation Limited,
Patna
11. District Manager, Bihar State Food And Civil Supplies Corporation Limited,
Daltanganj Palamu, Jharkhand

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Jitendra Nath
For the State	:	Mrs.Manisha Singh, AC to GP 7
For the BSFC		Mr. Shailendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 05-08-2019

Heard counsel for the petitioner and counsel for the
respondents-State as well as counsel for BSFC.

Writ petition has been filed assailing the amount



recovered from the petitioner being alleged amount of loss caused due to shortage of foodgrains in the godown where petitioner was earlier posted as Deputy Manager.

Authorities pursuant to enquiry had directed for recovery of alleged loss which comes to Rs.2,87,160.47 by order of the disciplinary authority dated 20.04.2009 (Annexure 36).

Office however, in compliance of the said order has made recovery from retiral benefit of the petitioner along with interest at the rate of 6% quantified at Rs 2,46,890.66.

Counsel for the petitioner has made two fold submissions. One submission is that amount of recovery which has been determined by the disciplinary authority under order dated 20.04.2009 was subsequent to a procedure which was in violation of principle of natural justice and without affording adequate opportunity to the petitioner. The other submission is that order dated 23.09.2010 includes a new punishment for deducting Rs 2,46,890.66 being the 6 % interest on the amount of alleged loss caused by the petitioner.

Amount of Rs 2,46,890.66 (6% interest) is without any basis as disciplinary authority under order dated 20.04.2009 has not awarded any interest. To this extent, counsel for the



petitioner is correct that the punishment does not award any interest which is evident from perusal of order of punishment dated 20.04.2009.

Counsel for the petitioner submits that since the said amount had wrongly been recovered and the petitioner has been made to suffer on account of such recovery, same amount may be refunded to the petitioner along with interest at the rate of 18% with effect from the date amount became payable. In support of his claim for 18%, he refers to the observation of this court in the order dated 15.03.2011 passed in MJC no. 496/2010 (Annexure 42 of writ petition).

Admitted position is that said order dated 15.03.2011 has not been assailed by the respondent-Corporation. Amount of recovery in respect of 6% interest comes to Rs 2,46,890.66. This court directs that the same be refunded to the petitioner with interest @ 18% as per order passed in MJC no. 496/2010 (Annexure 42 of writ petition).

In respect of petitioner's submission regarding order of the disciplinary authority being without complying with the principle of natural justice, this court would observe that the order of the disciplinary authority was never assailed by the petitioner. It is only one and half year thereafter when office of



the Corporation has imposed 6% interest on the amount of recovery under the order of the disciplinary authority, that petitioner has approached this court by filing instant proceedings in the year 2011.

Counsel for the respondent-Corporation made submission that against the order dated 20.04.2009 passed by the disciplinary authority, petitioner has remedy by way of review/appeal and without availing such remedy, petitioner has rushed to this court.

Having regard to the aforesaid facts, this court would grant liberty to the petitioner to approach review/appellate authority, if the rule so permits within a period of four weeks from today.

Writ petition stands allowed.

Refund should be made to the petitioner along with details showing calculation within a period of three months from the date of receipt/production of a copy of this order.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.8.2019
Transmission Date	NA

