

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1333 of 2018

In
Civil Writ Jurisdiction Case No.23434 of 2013

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The District Manager, Bihar State Food and Civil Supplies Corporation

... .. Appellant/s

Versus

1. Lala Shatrudhan Kumar Sinha and Ors son of Late Braj Nandan Sahay, resident of A/66, Housing Colony, Kankarbagh, Police Station- District- Patna.
2. The Bihar State Food and Civil Supplies Corporation Ltd., Head Office, Patna. Sone Bhawan, 5th Floor, Bir Chand Patel Patha Road, Patna -80001.
3. The Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
4. Managing Director, Bihar State Food and Civil Supplies Corporation Ltd. Sone Bhawan, 5th Floor, Bir Chand Patel Patha Road, Patna -80001.
5. The Chief of Procurement, Bihar State Food and Civil Supplies Corporation Ltd., Patna. Sone Bhawan, 5th Floor, Bir Chand Patel Patha Road, Patna -80001.
6. The Chief Administrator, Bihar State Food and Civil Supplies Corporation Ltd., Patna. Sone Bhawan, 5th Floor, Bir Chand Patel Patha Road, Patna -80001.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Nirmal Kumar, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 24-10-2019

I.A. No. 7212 of 2018

Heard Mr. Nirmal Kumar, learned advocate for

the respondent-appellant.



This is an application seeking condonation of delay in preferring the appeal.

For the reasons stated in the application, the delay in preferring the appeal is condoned.

The application stands allowed.

L.P.A. No. 1333 of 2018

The appellant/corporation has questioned the judgment dated 14.03.2018 passed by the learned Single Judge of this Court on 14.03.2018 in C.W.J.C. No. 23434 of 2013 whereby the punishment imposed on the respondent by order dated 19.06.2009 by the Managing Director, Bihar State Food & Civil Supplies Corporation as well as the order dated 06.11.2012 passed by the appellate authority, affirming the order of punishment has been set aside on the ground of charges being vague and the respondent not having been served with any opportunity of knowing the reason for and responding to the disciplinary authority differing with the opinion of the enquiry officer.



The respondent was subjected to a departmental proceeding on the basis of an enquiry conducted by the Vigilance Investigation Bureau in connection with irregularities which were found in the upliftment and the distribution of foodgrains under the two schemes of the Government *viz.* Annapurna and Antyodya Schemes in the Dighwara Nagar Panchayat in the district of Chapra.

On a preliminary enquiry when it was found that there were some irregularities, a show cause notice was issued to the respondent, as he during the aforesaid check period, served as Incharge Manager of the Corporation at Saran.

From the charge-memo which was served upon the respondent, it appears that sample of foodgrains was taken by the Vigilance Investigation Bureau for coming to the conclusion that persons who had to be given the benefit of such claims were left high and dry whereas undeserving persons took advantage of the aforesaid



scheme of the Government which was meant for the benefit of the last man in the row.

This memo of charge was found to be absolutely vague by the learned Single Judge in as much as details were not provided in the aforesaid charge-memo regarding the method of assessment of the irregularities in the upliftment and distribution of foodgrains. The basis for coming to such conclusion about the irregularities was made after the assessment of the sample of the foodgrains. Though this aspect of the matter has not been taken note of by the learned Single Judge but if the sample was the basis for forming an opinion in the preliminary enquiry by the Vigilance Investigation Bureau, it could have been only with respect to the quality of foodgrains and not with respect to the upliftment and distribution of such foodgrains at concessional price to the needy in accordance with the aforementioned beneficial schemes of the Government.



The enquiry report which was brought on record by the respondent as Annexure-8 further reflects that the opinion was arrived at on the basis of the statistics collected from the centre which was under the charge of the respondent.

However, while forming an opinion and submitting a report against the respondent, the enquiry officer clearly stated in his report that the doubts with respect to non-implementation of the scheme in letter and spirit was never refuted by the respondent totally and therefore the charges raised against him were found to be partially proved.

The respondent appears to have raised the issue that if this was the tenor of the enquiry report, and the disciplinary authority proceeded to differ with such report, it was of utmost necessity that the grounds for differing with such enquiry report ought to have been communicated to the respondent for him to reply to the same. That not having been done, the learned Single



Judge came to the conclusion that the proceedings stood vitiated and therefore the orders passed by the disciplinary and the appellate authority became suspect as having been passed without observance of the requirements in a domestic enquiry.

The order passed by the disciplinary authority also appears to be cryptic and does not refer to the grounds taken by the respondent before it. Similar flaw could easily be seen in the appellate order.

It is for these reasons, which have been recorded in paragraph-7 of the impugned judgment, the order passed by the disciplinary authority, reducing the salary of the respondent to its minimum level and stopping of three increments with cumulative effect was set aside. The appellate order was also quashed for the same reasons.

The learned Single Judge, on finding that the respondent had superannuated, did not consider it appropriate to direct for a fresh enquiry and therefore



closed the proceedings so far as the respondent is concerned.

We have perused the judgment impugned and the materials brought on record viz. the charge memo and the orders passed by the disciplinary authority as also the appellate authority and are satisfied that no interference is required with the order passed by the learned Single Judge.

There is no merit in this appeal and the same is dismissed.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

krishna/SKM

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