

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5846 of 2020

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Tapeshwar Ray, Son of Buni Ray, Resident of Chitrgupt Kaloni, Madhubani,
P.S.- Madhubani Town, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The Principal Secretary, Department of Food and Civil Supplies Corporation, Government of Bihar, Patna.
4. The Managing Director, Department of Food and Civil Supplies Corporation, Government of Bihar, Patna.
5. The District Manager, State Food Corporation, Madhubani, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ravindra Kumar Singh
For the Respondent/s	:	Mr. Upendra Pratap Singh, AC to SC-4
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate
		Mr. Utkarsha Utpal, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 13-12-2021

Heard learned counsel for the parties.

2. In the instant petition, the petitioner has prayed for the following reliefs:

“(i) For Quashing of the Memo No. 2652 dated 08.05.2001 issued by the Respondent No.4 directing for Dismissal of the Petitioner from the post of the then In-charge Seller, Bihar State Food and Civil Supplies Corporation Limited, Madhubani on the ground that on the same charges the Learned Trial Court has acquitted the Petitioner as the prosecution miserably failed to prove the charges against the



Petitioner and further the Hon'ble Supreme Court has already settled the Law that if on the same charges the criminal prosecution is initiated and acquitted the incumbent then the punishment order, if any, awarded on the basis of departmental proceeding must be set aside.

(ii) For Quashing of the Enquiry Report on the ground that the Enquiry Officer of the department had found the charges proved against the Petitioner without any supporting evidence and without cross-examining the auditor and on mere statement of the departmental officer and further even the Presenting Officer was not appointed by the department and thus the enquiry officer became both the presenting officer as well as the enquiry officer which is against the law/rule.”

3. The petitioner has statutory remedy of appeal before the Appellate Authority. Without exhausting the appeal remedy, petitioner has reached this Court. The petitioner was stated to have been subjected to the disciplinary proceedings and criminal proceedings on the common allegations. He has been acquitted in the criminal proceedings on 14.08.2019.

4. In the light of these facts and circumstances and the fact that petitioner was a Class-IV employee, he could not approach this Court or Appellate Authority timely, the Appellate Authority is hereby directed to take note of delay and consider the same and pass orders on merit. He is also directed to take note of



acquittal order dated 14.08.2019 while passing order on Memorandum of Appeal to be submitted by the petitioner.

5. The petitioner is hereby directed to submit Memorandum of Appeal within a period of eight weeks' from today. The Appellate Authority on receipt of appeal is directed to dispose of the petitioner's appeal to be filed within a period of six months from the date of filing of appeal. The delay in filing appeal may be dealt with reference to Section 14 of the Limitation Act, 1963.

6. Accordingly, the petition stands disposed of.

(P. B. Bajanthri, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.12.2021
Transmission Date	NA

