

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15854 of 2011

1. Shiv Kumari Devi w/o Late Janardan Singh Resident Of Village And P.O. Chougai, P.S. Murar, District-Buxar.
2. Ravikant s/o Late Janardan Singh, Resident Of Village And P.O. Chougai, P.S. Murar, District-Buxar.

... .. Petitioner/s

Versus

1. The Bihar State Ware Housing Corporation, Dak Bunglow Chowk, Patna Through The Chairman.
2. The Chairman, The Bihar State Ware Housing Corporation, Maurya Lok Complex, Dak Bunglow Chowk, Patna.
3. The Managing Director, The Bihar State Ware Housing Corporation, Maurya Lok Complex, Dak Bunglow Chowk, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Shashi Bhushan Kumar -Manglam, Advocate
For the Respondent/s	:	Mr. Mithlesh Kumar Roy, Advocate Mr. Krishna Kumar Singh, Advocate

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

Date : 28-09-2022

Heard learned counsels for the parties.

2. In the instant petition, deceased Janardan Singh
has prayed for following relief(s):-

(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 24.08.2011 passed by the Respondent no. 3 and contained in his memo no. 241 dated 24.08.2011, whereby and where under the Respondent no. 3 has been pleased to direct for deduction of a sum of Rs. 10,000/- per month from the salary of the petitioner for the adjustment of the price of storage loss of the food grains of Food Corporation of India which is being deducted by the



Food Corporation of India from the bill of the Respondent Corporation.

(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the enquiry report dated 18.08.2011 submitted by the Enquiry Officer to the Respondent no.3 wherein charges against the petitioner has been found to be true but without considering the show-cause filed by the petitioner and without providing him an opportunity of hearing.

(III) For issuance of an approach writ in the nature of MANDAMUS , commanding and directing the Respondent Authorities for refund of the amount already recovered from the salary of the petitioner and restraining the Respondents to recover any further amount from the petitioner's salary since the loss of weight sustained was the storage loss because of moisture which was found correct by the Committee constituted by the Respondent no. 3 for assessment of reasons of loss.

(IV) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner shall be found entitled under the facts and circumstances of the case.”

3. During pendency of the present petition, Janardan Singh has died and his legal heirs has come on record as substituted petitioner. Deceased Janardan Singh was subjected to disciplinary proceedings in framing charge-memo on the alleged allegations relating to shortage of wheat. In the result, causing financial loss to the Bihar State Warehousing



Food Corporation. It was concluded in imposition of penalty of recovery on 24.08.2011.

4. Learned counsel for the petitioner in support of challenged to the penalty order submitted that disciplinary authority has not followed Rule 18 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005. Rule, 2005 is adopted by the Respondent-Corporation in the light of Bihar State Warehousing Corporation, Staff Regulation, 1956, in particularly, Regulation No. 2(b).

5. The aforesaid contentions has not been disputed by the learned counsel for the Respondent-Corporation. In the result, it is a case for remand to the disciplinary authority. However, Janardan Singh has died during pendency of the present petition. Therefore, question of remand of matter to commence the inquiry from the defective stage is not warranted. In other words, proceedings stand abated even in the event of remanding the matter.

6. Further it is to be noted that there is alleged loss caused by the deceased Janardan Singh to the Respondent-Corporation. The same cannot be recovered from the legal heirs in a disciplinary proceeding. At the best they can initiate civil proceedings before the jurisdictional form. Even filing of any



civil proceedings against legal heirs of the deceased Janardan Singh may not be materialized for the reasons that the alleged allegation is during the period from 27.09.2002 to 06.11.2008.

7. In the light of these facts and circumstances, petitioner has made out a *prima facie* case. Hence impugned orders dated 24.08.2011 and 18.08.2011 stands set aside.

8. Accordingly, the present writ petition is allowed.

9. The concerned respondent is hereby directed to extend all monetary benefits which is due to the deceased Janardan Singh to his legal heirs within a period of three months from the date of receipt of this order, failing which petitioner is entitled to interest @ 6% *per annum* on the entire amount.

(P. B. Bajanthri, J)

Rakhi/shoaib

AFR/NAFR	
CAV DATE	
Uploading Date	12.10.2022
Transmission Date	

