

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2434 of 2022

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Surya Deo Sharma, Son of Shiv Lal, Resident of Village- Dilawarpur, P.S.- Bihta, Distt- Patna, At present posted as A.G.-1 (D) at FSD Jaynagar under Divisional Office Darbhanga.

... .. Petitioner/s

Versus

1. The Food Corporation of India through its Chairman cum Managing Director, 16-20 Barakhambha Lane New Delhi.
2. The Chairman-cum-Managing Director, Food Corporation of India 16-20 Barakhambha Lane New Delhi.
3. Executive Director (East Zone), Food Corporation of India 10-A Middleton Road Kolkata.
4. General Manager (Region), Food Corporation of India, Regional Office, Arunachal Building Exhibition Road, Patna.
5. The Asstt. General Manager (Vig.) Food Corporation of India, Regional Office, Arunachal Bhawan 3rd and 4th Floor Exhibition Road, Patna.
6. The Divisional Manager, Food Corporation of India, Regional Office, Arunachal Bhawan 3rd and 4th Floor Exhibition Road, Patna.
7. Area Manager D.O. F.C.I., Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar No1, Advocate
For the Respondent/s : Mr.Prabhakar Tekriwal, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 27-07-2023

1. Heard learned counsel for the petitioner and learned counsel for respondent-Corporation.

2. The petitioner was proceeded against on the basis of a charge memo dated 16-7-2013. The substance of charges against the petitioner was proceeding for deposing in a matter pending before the Central Government Industrial Tribunal without sanction of the competent authority; and taking a stand



contrary to the interests of the respondent-Corporation in his deposition.

3. The proceedings culminated in an order dated 26-4-2014/29-4-2014. The disciplinary authorities' finding was that the charges are not true. Still, the petitioner has been inflicted with the penalty of "Censure" to meet the ends of justice.

4. The order has recently been reviewed by the reviewing authority under its order dated 20-1-2022. The General Manager (region) in the regional office of the respondent-Corporation has in purported exercise of his jurisdiction and powers derived from Regulation 74 of the FCI (Staff) Regulations, 1971 (hereinafter referred to as "1971 Regulations") directed for further inquiry in respect of the same charges.

5. The learned counsel for the petitioner submits that such action, more than 8 years after the punishment, is not contemplated under Regulation 74 of the Regulations. The power of the competent authority to review is not in question. The time within which the power can be exercised is the issue raised by the learned counsel for the petitioner. The learned counsel has placed reliance on decision of the division bench in the case of the same Corporation versus Ozair Alam passed in



LPA No. 1581 of 2019, wherein the same provision and exercise of review jurisdiction under the provision was considered. The Division Bench's judgement has settled the issue in the following terms:

"5. Feeling aggrieved and dissatisfied with the order of the reviewing authority, respondent Nos. 1 to 3 filed C.W.J.C. No. 3325 of 2019. Learned Single Judge proceeded to allow the petition on the score that reviewing authority cannot exercise power beyond the reasonable period of time merely on the ground that Regulation 74 stipulates 'at any time either on its own motion or otherwise.' Having regard to the dates and events read with the Regulation 74, one has to draw inference that 'at any time' cannot be given leash to the competent authority to exercise power after three years. The reasonable period of three years is required to be taken note of with reference to filing of a civil suit under Civil Procedure Code whereas reviewing authority has exercised power of review after five years, therefore, we find no merit in the present L.P.A.



6. Accordingly, L.P.A. stands dismissed while affirming the order of the learned Single Judge dated 16.09.2021 passed in C.W.J.C. No. 3325 of 2019."

6. The exercise of review is way beyond three years, which period has been considered reasonable by the Division Bench. Therefore, the order dated 20-1-2022 in purported exercise of jurisdiction under Regulation 74, eight years after the order of punishment, is unsustainable and is hereby quashed.

7. Mr. Prabhakar Tekriwal, learned counsel for the respondent-Corporation submits that the order may not come in the way of issuance of fresh charge memo.

8. The Court thus would observe that if charges are not the same, nothing will come in the way of the respondent-Corporation for proceedings against the petitioner.

9. Writ petition is allowed.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2023
Transmission Date	NA

