

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1581 of 2019

In
Civil Writ Jurisdiction Case No.3325 of 2019

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1. The Food Corporation Of India through the Chairman Cum Managing Director, 16-20 Barakhambha Lane New Delhi.
 2. The Chairman Cum Managing Director, 16-20 Barakhambha Lane New Delhi.
 3. The Executive Director (East Zone) Food Corporation of India, 10-A, Middleton Row, Koklkata-71
 4. The General Manager (Region) Food Corporation of India, Regional Office, Arunchal Building, Patna

... .. Appellant/s

Versus

1. Ozair Alam S/o Late Habibur Rahman Resident of Mohalla- R.K. Nagar, New Masjid, F.C.I. Road, Phulwarisharif, P.s.- Phulwarisharif, District- Patna
2. Atul Prasad Sharma S/o Late Bhagwat Singh Resident of Village- Anandpur, P.s.- Bihta, District- Patna
3. Sanjeev Kumar Singh S/o Vinod Prasad Singh Resident of Village- Murgiachak, P.s.- Islampur, District- Nalanda

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. P.K. Shahi, Sr. Advocate
		Mr. Prabhakar Tekriwal, Advocate
For the Respondent/s	:	Mr. Mukesh Kumar No. 1, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 11-01-2023

Re: I.A. No. 1 of 2020

Heard I.A. No. 1 of 2020 for condonation of delay of
about 44 days in filing L.P.A.



2. For the reasons stated in the application and affidavit, delay is condoned. I.A. stands allowed.

3. The present L.P.A. is filed against the order of the learned Single Judge dated 16.09.2019 passed in C.W.J.C. No. 3325 of 2019. Respondent Nos. 1 to 3 were subjected to disciplinary proceedings and it was concluded in imposition of penalty of censure on 07.03.2014. The competent authority exercised power under Regulation 74 of the Food Corporation of India (Staff) Regulation, 1971. Regulation 74 reads as under:

“74. Review:

(1) *(Notwithstanding anything contained in these regulations, the Board may, at any time either on its own motion or otherwise, call for the records of any inquiry and review any order made under these regulations), and

(a) confirm, modify or set aside the order; or

(b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or

(c) Remit the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or

(d) pass such other orders as it may deem fit;

**Provided that no order imposing or enhancing any penalty shall be made by the reviewing authority unless the employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (v) to (ix) of

Underline Supplied



Regulation 54 or to enhance the penalty imposed by the order sought to be viewed to any of the penalties specified in those clauses; no such penalty shall be imposed except after an inquiry in the manner laid down in Regulation 58.

(2) No proceeding for review shall be commenced until after:

i) the expiry of the period of limitation for an appeal, or

ii) the disposal of the appeal, where any such appeal has been preferred.

(3) An application for review shall be dealt with in the same manner as if it were an appeal under these regulations.

(4) Powers similar to those specified in clause(1) above may be exercised by the (Chairman)*, Managing Director, Zonal Manager (Additional)/ Joint Manager) in respect of orders passed by authorities subordinate to them.”

4. The competent authority has exercised the power of Regulation 74 in reviewing the disciplinary authority's order dated 07.03.2014 on 04.01.2019 while setting aside the order of the disciplinary authority insofar as imposition of penalty of censure and remanded the matter for inquiry.

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.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	17.01.2023
Transmission Date	

