

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12812 of 2012

Uday Chandra Jha Son of Late Rameshwar Jha Resident of Near Congress Office, Balbheccha Pur and P.O. Laheriasarai, P.S. Laheriasarai, District-Darbhanga Petitioner/s

Versus

1. The Food Corporation of India, through the General Manager, Food Corporation of India, Bihar Region, Regional Office, Arunachal Building, 3rd Floor, Exhibition Road, Patna- 800001
2. The General Manager Region, Food Corporation Of India, Bihar Region, Regional Office, Arunachal Building, 3rd Floor, Exhibition Road, Patna-800001
3. The Managing Director, Food Corporation Of India, Head Quarters, 18-20, Barakhamba Lane, New Delhi- 110001
4. The Executive Director Zone, Food Corporation Of India, Zonal Office East, 10 A, Middleton Row, Kolkata
5. The Ara Manager, Food Corporation Of India, District Office Darbhanga, Null Laheriasarai, Darbhanga- 846001

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Advocate
For the FCI	:	Mr. P.K Verma, Sr. Advocate
		Mr. Mankeshwar Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 23-04-2024

Heard learned counsel for the petitioner and
learned senior counsel appearing on behalf of the FCI.

2. The present writ petition has been filed for the
following reliefs:-

“a. To quash the Order contained in letter no. A & R/ 5(11) / 2011 / 533, dt. 28.04.2011 (Ax-1) whereby the appeal filed by the petitioner against the order of punishment has been rejected.

b. To quash the Order contained in letter no. Ref. No. Vig.36(1050)/4/2007, dt. 02.10.2009, whereby penalty of “Censure” and recovery of Rs. 90,000/- from the salary upto 1/3rd of the pay has been imposed on the petitioner.

c. For payment of recovered amount with



interest.

d. For any other relief/reliefs for which the petitioner is entitled to.”

3. The petitioner has been superannuated w.e.f 31.03.2011 as Manager (Depot) in the District Office, Food Corporation of India (FCI), Darbhanga.

4. Learned counsel for the petitioner submits that when the petitioner was posted as Manager (Depot) FCI, Darbhanga, he was served with a memorandum with statement of imputation of misconduct initiating disciplinary proceeding against the petitioner, vide Ref no. Vig.36(1050)/4/2007 dated 09.06.2009. As per the imputation of misconduct, the allegation against the petitioner is that he failed to undertake test check weighment of stocks. There were 24768 bags rice unloaded on 20.06.2006 at Laheriasarai Railway siding against 20 wagons out of which 10260 bags were lifted in 54 trucks and balance 14508 bags were leftover at the opening siding for over night detention on 21.06.2006, 7030 bags were lifted in 37 trucks leaving 7478 bags at Railway siding for over night detention on 22.06.2006, the balance 7478 bags were completely lifted from the Railway siding on 23.06.2006 which shows delay in lifting of unloaded 24768 bags from Railway siding and the said stocks was received at FSD, Darbhanga from 20.06.2006 to 23.06.2006 which suggests negligence in supervision on the part of the



Depot Officer (petitioner). The trend of average received weight per bags has been found gradually decreasing from the 1st day of receipt at the depot i.e. 20.06.2006 to the final receipt on 23.06.2006. It was the duty of the petitioner to supervise the entire operation of the receipt of consignment effectively, but he failed.

5. Learned counsel for the petitioner submits that the petitioner has submitted a detailed reply denying the allegations, vide his representation dated 23.06.2009 and he has categorically stated that the allegation are not true rather false and fabricated. He further submits that the misconduct on his part in supervision has been alleged against him is without any supportive documents as will be evident from the memorandum itself. No evidence or document has been disclosed/enclosed in the said memorandum on which the alleged lapse is based on which the disciplinary authority wanted to prove the misconduct against the petitioner. The disciplinary authority without any basis and in complete violation of the principles of natural justice and fair play, passed a very cryptic order dated 02.10.2009 whereby penalty of “censure” and recovery of Rs. 90,000/- were imposed against the petitioner.

6. Learned counsel for the petitioner submits that no reason whatsoever has been given for rejecting the specific



contentions raised by the petitioner in his show cause and the petitioner was found guilty of surmises and conjecture and no document/evidence has been disclosed.

7. The petitioner has challenged the order of punishment dated 02.10.2009 in CWJC No. 1327 of 2011 which was disposed of vide order dated 21.01.2011 with a direction to the appellate authority to consider and dispose of the appeal within 3 months and the present punishment has been awarded without initiating any proceeding against the petitioner.

8. Mr. P. K. Verma, learned senior counsel appearing on behalf of F.C.I submits that as per the Regulation 54 and Regulation 60 of the FCI (Staff) Regulations which suggests that procedure for imposition of minor penalties which is quoted hereinbelow:-

“54. Penalties:

Notwithstanding anything contained in any other regulation, and without prejudice to such action to which an employee may become liable under any other regulation or law for the time being in force, the following penalties may (for good and sufficient reasons and as hereinafter provided) be imposed on any employee of the Corporation.

Minor Penalties:

- (i) censure;*
- (ii) withholding of his promotion;*
- (iii) recovery from his pay of the whole or part of any pecuniary loss caused by him to the Corporation by negligence or breach of orders;*
- *\$(a) Reduction to a lower stage in the time*



scale of pay by one stage for a period not exceeding three years, without cumulative effect and not adversely affecting his pension.

(iv) withholding of increments of pay.

60. Procedure for imposing minor penalties:

(1) Subject to the provisions of Sub-regulation (3) of Regulation 59, no order imposing on an employee any of the penalties specified in clauses (i) to (iv) of Regulation 54 shall be made except after:

(a) informing the employee in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in Sub-regulation (3) to (23) of Regulation 58, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the employee under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehaviour.

(2) Notwithstanding anything contained in clause (b) of Sub-regulation (1), if in a case it is proposed, after considering the representation, if any, made by the employee under clause (a) of the sub-regulation, to withhold increment of pay and such withholding of increments is likely to affect adversely the amount of retirement benefits payable to the employee or to withhold increments of pay for a period exceeding 3 years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in



Sub-regulation (3) to (23) of Regulation 58 before making any order imposing on the employee any such penalty.

(3)The record of the proceedings in such cases shall include:

(i)a copy of the intimation to the employee of the proposal to take action against him,

(ii)a copy of the statement of imputations of misconduct or misbehavior delivered to him;

(iii)his representation, if any;

(iv)the evidence produced during the inquiry;

(v)the findings on each imputation of misconduct or misbehavior; and

(vi)the orders on the case together with the reasons therefore.”

9. As per the aforesaid regulation which suggests that only informing the employee in writing of the proposal to the action against him and of the imputation of misconduct or misbehavior on which it is proposed to be taken, and giving him reasonable opportunity of making such representative as he may wish to make against the proposal and in the present case the Corporation has followed Regulation 60 and ask the petitioner to file his reply and after receiving the reply from the petitioner the present impugned order has been passed. From perusal of the impugned order it appears that total loss was Rs. 3,31,008/- and on going through the relevant records and submissions of the petitioner it is gathered that the total loss worked out in the charge sheet has been impropportionate between the consignee and the consigner depending on the lapses and irregularities



noticed in the respective ends and on carefully going through the charge sheet, reply of the C.O and other concerned records of the case the disciplinary authority imposed a penalty of censure and recovery of only Rs. 90,000/- to meet the ends of the justice and there is no procedural irregularities in the present proceeding and the Corporation has followed Regulation 60 of the FCI (Staff) Regulations. He further submits that Regulation 54(i) of the said Regulation suggests censure and 54(iii) suggests recovery from his pay of the whole or part of any pecuniary loss caused by him to the Corporation by negligence or breach of orders.

10. In view of the aforesaid, it appears that the Corporation has acted according to the Regulation and there is no irregularity in the impugned order dated 28.04.2011. Hence, no case is made out for interference of this Court.

11. Accordingly, this writ petition stands dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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