

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 125 of 2024

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Ram Nagina Singh, son of Late Banka Singh, resident of Village-Rana Pratap
Nagar Near Koatki Devi, P.S.-Town, Distt.-Chapra Saran.

... .. 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. The Executive Director (East Zone) Food Corporation of India 10-A Middleton Row, Kolkata-71.
4. The General Manager (Region) Food Corporation of India Regional Office Arunachal Bhawan 3rd and 4th Floor, Exhibition Road, Patna.
5. The Asstt. General Manager (Vig.) Food Corporation of India Regional Office Arunachal Bhawan 3rd and 4th Floor, Exhibition Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar No.1, Advocate
For the Respondent/s	:	Mr. Prabhakar Tekriwal, Advocate
		Mr. Rajendra Lal Das, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 12-07-2024 1. The petitioner has invoked the extraordinary

Constitutional Writ Jurisdiction of this Court for the following

reliefs:-

*“I) Order dated 30.12.2019 passed by
the Reviewing Authority whereby and where
under the review petition has been dismissed
and confirmed the punishment awarded by the
disciplinary authority.*

*II) Order dated 14.07.2017 passed by
appellate Authority whereby and where under
appeal has been dismissed and confirmed the*



Punishment order.

III) Order dated 28.06.2016 passed by the Disciplinary Authority whereby and where under the petitioner was awarded punishment to "Reduction to the initial Pay in the Time-Scale of Pay to the post of AG-II (D) till his retirement.

For further quashing of Inquiry Report dated 27.11.2014 relying upon which the punishment order has been passed.

During the pendency of this writ petition before this Hon'ble High Court, the order under challenge may kindly be stayed.

For further issuance of appropriate Writ/Writs, order/orders, direction/Directions for which the petitioner is legally entitled."

2. The petitioner was employed as Assistant Grade-II(D) under the Food Corporation of India and was posted at BSWC, Chapra.

3. That on 27th of November, 2014, under common proceeding, departmental inquiry was directed to be conducted against five employees of Food Corporation of India on the charge that the said employees in connivance with each other had shown fake procurement of CMR(Rice) by way of proper transaction at BSWC, Chapra on 25th and 26th of March, 2013.



Though, no rice was actually and physically procured at BSWC, Chapra.

4. The competent authority found such specific act of the petitioner and six other employees as departmental misconduct. Charge-sheet was submitted against them and they were asked to submit their reply. Subsequently, enquiry was held. Out of the seven delinquent employees, five employees, including the petitioner, were found guilty and they were accordingly punished by the departmental authority.

5. The petitioner preferred an appeal against the order of the disciplinary authority but the appeal also received the same fate. Against the appellate order, the petitioner approached in review which also stood rejected and subsequently the instant writ petition has been filed.

6. It is contended by the learned Advocate for the petitioner that the petitioner was punished by reduction to the initial pay in the time scale of pay to the post of AG-2(D) till his retirement.

7. It is also contended on behalf of the petitioner that during the disciplinary proceeding the petitioner was not given proper opportunity to submit his defence and his defence has not been properly considered by the disciplinary authority, appellate



and reviewing authority.

(a) In his defence, it was contended by the petitioner that the Superintendent, BSWC have admitted that they received the procured stocks on 25th and 26th of March, 2013 and accordingly they recorded the transaction in the respective registers and ledgers.

(b) Similarly, the BSWC Superintendent has admitted the stock was issued on 29th and 30th March, 2013. The lifting in-charge BSWC has also admitted that they received the said stock on 29th and 30th March, 2013 from BSWC, Chapra and the stock was delivered to PDS dealers. Not only this the handling transporting contractor of BSWC have also admitted both the transaction of 25th and 26th of March, 2013 and the said stock was issued on 29th and 30th of March, 2013

(c) Besides this, when the records of all the agencies centre i.e. the procurement centres of FCI at BSWC, Chapra, BSFC Chapra, H/T contractor of BSFC and BSFC lifting in Charge deployed for delivery of Rice to FCI BSWC, Chapra have confirmed that the transaction has been taken place on the said dates. The Committee visited the depot to verify the genuineness after a pretty long time. Therefore, the Committee's finding was perverse and it cannot bind the Petitioner No. 2.



(d) The charges of alleged fictitious procurement is based on single reason that quality control persons did not issue acceptance certificate which was mandatory for a transaction to be valid. As per prosecution version, the BSWC Manager who kept the stock in Godown through contractor and FCI official posted at the procurement center has confirmed that the stock was unloaded in the Godown on 25.03.2013 and 26.03.2013 and was subsequently issued on 29.03.2013 and 30.03.2013 cannot be disbelieved for a single reason that quality control persons did not issue acceptance certificate.

8. Admittedly, the above defence was taken by the petitioner in course of the appeal.

9. The learned Advocate for the petitioners submits that the appellate authority did not consider the specific defence of the petitioner and, therefore, the decision of the disciplinary authority as well as appellate and reviewing authority are unfair, unjust and arbitrary.

10. I have heard the learned counsels for the parties at length.

11. I have also perused the documents annexed with the instant writ petition carefully.

12. Only grievance of the petitioner against the



departmental proceeding is that the defence raised by him was not considered by the concerned authorities.

13. I am not in a position to accept such contention made by the learned Advocate on behalf of the petitioner.

14. In support of my observation, it would be appropriate to record the following paragraphs of the appellate order :-

“AND WHEREAS, aggrieved with the said order. Shri Ram Nagina Singh, AG-II (D) has preferred the instant appeal petition Dt. 04.08.16 with following major contentions:

i. The Inquiry Officer had recorded that the appellant was to perform his duty on instruction of depot in charge and used to prepare 10% weighment, railway siding work etc. at BSWC Chapra.

ii. The depot incharge and procurement incharge was Shri Hansraj Singh and Shri Yogender Singh respectively. As he was not empowered to allow any receipt or issue in the depot.

iii. The alleged fictitious receipt on 25th and 26th March 2013 and their issue on 29 and 30 March 2013, the depot incharge BSWC Godown Shri Hansraj Singh and procurement incharge Shri Yogendra Singh was prosecuted under FCI staff Regulation 58 and



they were already penalized by the Competent Authority. After 10 months, he was chargesheeted which clearly indicated that he had been made a scape goat for no fault of him.

AND WHEREAS, the appellant was granted personal hearing on 23.05.2017 by the undersigned which was attended by him. The undersigned after hearing the appellant at length and having gone through the contents of the charge-sheet, inquiry report, penalty order, contents of appeal and connected records, observes that the appellant had been proceeded against under major penalty proceedings in a matter of fictitious and fake of procurement of CMR rice reported at BSWC Chhapra during March, 2013 as detailed in the charge memorandum and proved during the Inquiry proceedings It is seen that during inquiry proceedings, Sh. Ram Nagina Singh has deposed that he was posted at FCI, FSD, Chhapra, but as per the requirement he was posted at BSWC Chapra during March April'2013. He has also given the answer of Q. No. 5 that 10% weighment has been done by him on 25th & 26th March 2013 in respect of CMR received at BSWC Chapra'. It is evident from the record and clearly established that the CMR rice procurement on 25 & 26th March 2013 and issued on 29 & 30 March 2013 was fictitious and fake and no physical procurement



was undertaken and that only paper transaction had been effected. It is clear that the official while posted at BSWC Chhapra in connivance with the concerned depot officials had committed gross irregularities in the fictitious purchase of CMR rice stocks.

The appellant has contended that he has been made scape goat in the matter as the depot incharge BSWC Godown Shri Hansraj Singh and procurement incharge Shri Yogendra Singh had already been penalized by the Competent Authority/GM (R), FCI, Bihar. This plea has no merit as the appellant had been proceeded as per recommendations made by the investigating agency and after due examination of entire set of facts proving his culpability in the matter. Further, there is no flaw in initiating disciplinary proceedings alongwith other co-accused at ED (E) level as per the provisions stipulated in FCI (staff) Regulations, 1971. It is also on record that the Area Manager, Chhapra and other delinquents had also been proceeded and penalized for their lapses and penalties were inflicted as per gravity of misconduct proved on their parts.”

15. Thus, the appellate authority duly considered the defence taken by the petitioner. Secondly, he was granted personal hearing on 23rd of May, 2017. Thus, the basic principle



of natural justice and principle of *audi alteram partem* was duly granted to the petitioner.

16. It is needless to say that this Court while discharging its duty under Article 226 of the Constitution of India cannot act as the appellate authority of the disciplinary authority. It is the duty of the Constitutional Court to consider as to whether the petitioner was given proper opportunity to ventilate his grievance. This Court finds that the disciplinary as well as appellate authority gave him adequate opportunity to contest his case in the disciplinary proceeding.

17. The respondents have stated that the petitioner committed misconduct by showing acceptance of CMR stock fraudulently and dishonestly on 25th of March, 2013 and 26th of March, 2013 and he also showed release of the said stock on 29th of March, 2013 and 30th of March, 2013. The quality control staff did not accept of receipt of CMR (Rice) in BSWC on 25th of March, 2013 and 26th of March, 2013. The said fact is amply proved in the departmental proceeding.

18. Therefore, I do not find any reason to issue any order or direction or writ against the findings of the disciplinary proceeding.

19. The instant writ petition is accordingly dismissed



on contest.

20. However, there shall be no order as to costs.

(Bibek Chaudhuri, J)

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