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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9389/2024**

DR. OM PRAKASH SINGH

.....Petitioner

Through: Mr. Madhav Khurana and Ms.
Sanjivani Pattjoshi, Advocates

versus

FOOD CORPORATION OF INDIA

.....Respondent

Through: Mr. Manoj, Standing Counsel for
Food Corporation of India.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **11.07.2024**

CM APPL. 38541/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 9389/2024 and CM APPL. 38540/2024 (stay)

3. This petition has been preferred on behalf of the Petitioner seeking the following reliefs:-

"A. Issue a Writ in the nature of Certiorari or any other appropriate Writ, Order or Direction against the Respondent to quash the Show Cause Notice dated 03.05.2021 and Memorandum dated 25.09.2023 instituting Departmental Enquiry against the Petitioner herein for purported contraventions under Regulations 31, 32 & 32-A(5), (9), (18), (22) and (3) of the FCI Staff Regulations, 1971 vide FCI HQ-VIG019/228/2022-VIG (E-4197) [annexed and marked herewith as ANNEXURE P-1(COLLY)] and all other consequential proceedings emanating therefrom against the present Petitioner; AND

B. Issue a Writ in the nature of Mandamus or any other appropriate Writ, Order or Direction against the Respondent to forthwith release any and all consequential relief emanating from grant of the aforementioned prayer (A); AND

C. Issue a Writ in the nature of Certiorari or any other appropriate Writ, Order or Direction against the Respondent to quash the Investigation



*Report forming the basis of the aforementioned SCN and Memorandum;
AND*

*D. Pass such other further order or orders as this Hon'ble Court may
deem fit and proper in the facts of the case and in the interest of justice."*

4. Petitioner was appointed as Assistant General Manager (Quality Control) with the Respondent in May, 2000 and was promoted from time to time. On 05.10.2021 when the Petitioner was working as Chief General Manager, a show-cause notice was served on him, which triggered the initiation of major penalty proceedings against the Petitioner and Memorandum of Charge was issued against him on 26.09.2023, i.e., the penultimate working day prior to his retirement on 30.09.2023. As per the Petitioner, the departmental inquiry is at the stage of arguments and the next date before the Inquiry Officer is 12.07.2024.

5. Petitioner has approached this Court seeking multiple reliefs alleging glaring illegalities during the inquiry proceedings, including violation of principles of natural justice, which according to him have caused grave prejudice to his defence. Mr. Madhav Khurana, learned counsel appearing on behalf of the Petitioner emphasizes that amongst other illegalities, the most glaring ones are that Petitioner was denied the opportunity to cross-examine two material witnesses of the prosecution, i.e., PW1 Sh. H.S. Dhaliwal, GM (Genl.) and PW2 Sh. Avinash K. Dubey, Mg (HK) RO (CG), which is a valuable right available to a Charged Officer, in law. It is further submitted that while the Presenting Officer has been permitted to submit the prosecution brief vide order dated 02.07.2024, no opportunity has been granted to the Petitioner to file the defence brief.

6. Issue notice.



7. Mr. Manoj, learned Standing Counsel accepts notice on behalf of the Respondent and fairly and candidly submits that opportunity may be granted to the Petitioner to cross-examine PW-1 and PW-2, but the same be made time bound so that the inquiry is not unnecessarily prolonged.

8. In view of the aforesaid, this petition is disposed of with a direction to the Inquiry Officer to grant an opportunity to the Petitioner to cross-examine PW1 Sh. H.S. Dhaliwal, GM (Genl.) and PW2 Sh. Avinash K. Dubey, Mg (HK) RO (CG) and thereafter to file the written defence brief. As assured on behalf of the petitioner, the cross-examination shall be concluded within a period of two weeks from today, subject however to the availability of the witnesses, but in no case later than four weeks from today. All other contentions and legal issues raised in the present petition are left open, granting liberty to the Petitioner to raise them at the appropriate stage, during and after the conclusion of the inquiry proceedings, as the case may be. It is made clear that Court has neither entered into nor expressed any opinion on the merits of the matter.

9. Pending application also stands disposed of.

JYOTI SINGH, J

JULY 11, 2024/kks