

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.357 of 2019

In
Civil Writ Jurisdiction Case No.12385 of 2016

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1. The Food Corporation Of India through the Chairman, 16-20 Barakhambha Lane, New Delhi.
 2. The Chairman, Food Corporation of India 16-20 Barakhambha Lane, New Delhi.
 3. The Managing Director, Food Corporation of India 16-20 Barakhambha Lane, New Delhi.
 4. The Executive Director (East Zone), Food Corporation of India, 10-A, Middleton Row Kolkata-71.
 5. The General (Region) Food Corporation of India Regional Office Arunachal Bulding Exhibition Road, Patna.

... .. Petitioner/s

Versus

Subhash Chandra Sharma, Son of Late Triyug Sharma, Resident of Village-
Paltu Chatni, P.S.- Naubatpur, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Prabhakar Tekriwal, Advocate
For the Opposite Party/s	:	Mr.Mukesh Kumar No1, Advocate
For the F.C.I.	:	Mr. Rajendra Lal Das, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 08-05-2025 Heard the parties.

2. The present petition has been preferred for the
following relief/s:

*(i) for reviewing the order dated 23.05.2019
passed in CWJC No. 12385 of 2016 by
(Hon'ble Mr. Justice Shivaji Pandey as his
Lordship then was) by which order the
Hon'ble Court has remitted the matter back*



to the Appellate Authority for considering the case on merit after examining all the facts and proportionally fixed liability and recover the same from the person concerned and the Hon'ble Court while remitting the matter back to the Appellate Authority has set aside the order of Disciplinary Authority.

3. The sole opposite party Subhash Chandra Sharma came before this Court in **C.W.J.C. No. 12385 of 2016 (Subhash Chandra Sharma vs. the Food Corporation of India & Ors.)** challenging the order and the appeal dated 30.06.2013 by which the Appellate Authority dismissed the appeal holding to be time barred.

4. The allegation was about huge loss of 5,59,54,479/- but a token penalty of Rs. 3,00,000/- was awarded to the petitioner. The writ Court held that when there is such huge loss, how only a token punishment can be treated a suitable punishment. However, as the learned counsel for the petitioner submitted that the defence was not taken into consideration, the original order dated 30.5.2013 passed by the Disciplinary Authority was set aside sending the matter back to



the Appellate Authority to decide it on its merit after examining the matter deeply and also to consider in what manner the loss can be recovered from the erring officials who were posted at the depot and fixing their liability for recovery.

5. Aggrieved, the present petition.

6. The case of the petitioner is/are that when the matter was sent to the Appellate Authority, the appellate authority order dated 30.06.2015 should have been set aside and not the original order dated 30.09.2013 by which cost of Rs.3,00,000/- was awarded to the opposite party.

7. This Court has heard the submissions of the parties and the order of the Writ Court. The Court was very clear that there is/was loss of Rs. 5,59,54,479/- but only a token penalty of Rs.3,00,000/- was imposed upon the petitioner by the Disciplinary Authority vide an order dated 30.09.2013. In that circumstance, the writ Court held that when there is such a huge loss how only a token punishment can be treated a suitable punishment and further while reverting the matter to the Disciplinary Authority by setting aside the order dated 30.09.2013 on the ground that the defence was not taken into consideration incorporated that the Appellate Authority should also examine as to under what manner the loss can be recovered



from the erring officials, who were posted at the depot and proportionality their liability should be fixed and recovery should be made from them.

8. Clearly, the Appellate Authority was to examine the entire things. However, this Court must record that when the matter has been remitted back to the Appellate Authority, the order dated 30.06.2015 by which the appeal was dismissed as time barred also has to be set aside.

9. Accordingly, without making any change in the observation/order of the writ Court but only incorporating that the Appellate Authority dated 30.06.2015 by which the appeal was dismissed as time barred is also set aside.

10. The review petition stands disposed of.

(Rajiv Roy, J)

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