

09.01.2026
(D/L- 14)
Ct. No.4
(B.K.N.)

**M.A.T. 1741 of 2025
With
CAN 1 of 2025
CAN 2 of 2025**

**The Food Corporation of India & Ors.
Vs.
Chandra Sekhar Barua**

Mr. Devajyoti Barman,
Ms. Sanjukta Basu Mallick

...for the Appellant

Mr. Nilay Sengupta,
Mr. Sujit Banerjee

...for the Respondent/Writ Petitioner

In Re: CAN 1 of 2025

1. This is an application under Section 5 of the Limitation Act for condonation of delay of 102 days in filing the instant appeal.
2. On perusal of the application and after hearing the learned advocates for the contending parties this Court is of the considered view that the appellants have made out a case of diligently proceeding with the matter, and the delay in filing the appeal appears to be sufficiently explained.
3. Accordingly, the prayer is allowed.
4. Delay in filing the instant appeal is hereby condoned.
5. CAN 1 of 2025 is disposed of accordingly.

In Re: M.A.T. 1741 of 2025

1. Heard learned advocate for the appellants and the learned counsel representing the respondent.
2. The respondent herein was the writ petitioner working as Assistant Grade-I (Depot) and DEO under the respondent Corporation. He has been proceeded against on the basis of a charge memo dated 22.04.2013. The charge memo is issued against 18 employees of the Corporation posted at the concerned Depot right from the Guard till the Manager. The petitioner, in the enquiry was visited with the punishment of dismissal from service. The petitioner approached the Writ Court assailing the findings.
3. Upon detailed consideration of the petitioner's case the Hon'ble Single Judge found that charged officials whose names figure at serial no. 9, 10, 11, 17 and 18 of the charge memo dated 22.04.2013 were proceeded against for the same charge and all of them had been awarded the punishment of dismissal. The Division Bench found the order of the dismissal to be unsustainable having regard to the nature of allegations which did not specify separate role of any of the accused persons.
4. We find that the charge memo contains articles of charges, all which are common to all accused, and the same charge is required to be answered by all the 18 employees. The list of witnesses and documents relied

upon in support of the charges, is also one and the same. There is no difference whatsoever between the charged officials, taken note of above and the present writ petitioner.

5. We find that no individual role has been delineated against any individual, let alone the writ petitioner. Based on the charge memo and evidence relied upon by the department, there is no distinction between the petitioner and other 17 persons, proceeded against by a common charge memo. The case of the petitioner, therefore, was rightly found by the Hon'ble Single Judge not to be at variance with the case of the charged official nos. 9, 10, 11, 17 and 18.
6. In the case of the said charged officials the Division Bench found that the punishment of dismissal was unsustainable considering the nature of charge, and the number of accused persons in the charge sheet. The Division Bench in the case of the said charged officials in F.M.A. 4509 of 2016 held:

“Considering the nature of the charge, the number of persons accused in the charge-sheet, the punishment imposed on the other persons charged, the facts proved against the appellant and the facts which were not established against him, we find that the punishment of dismissal from service was unreasonable and too harsh. It is so disproportionate that it moves the conscience of the Court.

In that view of the matter, the appeal is allowed in part.

The impugned judgment and order dated 6th June, 2006 is set aside.

The order of the disciplinary authority including that of the appellate authority is

sustained only the punishment imposed is set aside.

We remand the matter back to the appellate authority to review the punishment considering the observations made above. The appellate authority is free to impose any punishment in the facts and circumstances of the case, except a punishment resulting in dismissal from service or removal from service.

The appellate authority will review this punishment within a period of eight weeks of communication of this order. For this purpose hearing need not be given to the parties.

The appeal FMA 4509 of 2016 is disposed of.”

7. Finding of the Division Bench would be common to the present petitioner as there is not even a subtle difference in the facts arising from the charge memo, the allegations therein, the evidences and the witnesses.
8. Finding, the petitioner's claim of parity to be sustainable, the Hon'ble Single Judge after due consideration of the law and the judgments in this regard extended the same relief to the present writ petitioner leaving it to the disciplinary authority to take a decision on the quantum of punishment, other than dismissal which was found to be unsustainable in the above noted facts and circumstances.
9. We find that there is no distinction in the charge, allegations, witnesses, evidences. Therefore, the treatment of parity with the other accused extended by the Hon'ble Single Judge to the writ petitioner after a detailed consideration of petitioner's case and the law

based on judgments of the Apex Court does not require any interference.

10. The appeal is dismissed.

11. The application being CAN 2 of 2025 is also dismissed.

12. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)