

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

Date Of Decision: May 10, 2018

+ **WP (C) 3388/2007**

OM HARI SIROHI Petitioner

Through: Mr. Manmoan and Mr. Rajiv
Ranjan Pandey, Advocates

versus

FOOD CORPORATION OF INDIA & ORS. Respondents

Through: Mr. Rajeev Sharma, Advocate

**CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR**

JUDGMENT
(ORAL)

1. Petitioner, while being posted as Technical Assistant (Grade-1) in Food Storage Depot, Mansa, during the years 1998-1999 & 1999-2000, was departmentally tried on the following charge: -

“He accepted BRL Rice Raw Gr.A(URS) stocks during Crop year 1998-99 and that 25125 bags were dispatched on 4/5.10.99 Ex-Mansa to Bilaspur(MP). The said stock was unloaded/received at destination on 9.10.99 which was found BRL in respect of broken dehusked and foreign matter which fetched the quality complaint, and he caused the financial loss of

Rs.28,38,451.20 on account of quality cuts. He issued the priority of BRL RR Gr.A stocks knowingly to hide his misconduct. He deliberately avoided to avail the opportunity of joint inspection.

Thus said Shri O.H. Sirohi, TA.I contravened the Regulation, 31, 32 read with 32(A) of FCR (Staff) Regulations, 1977”

2. The Disciplinary Authority vide order of 14th February, 2005 (Annexure P-7), accepted the Inquiry Officer's report. He has inflicted the penalty of compulsory retirement upon petitioner which was unsuccessfully challenged by him, by way of a statutory appeal. Review sought by petitioner stands declined vide impugned order of 12th July, 2006 (Annexure P-11). The operative portion of the Review Order reads as under:-

“On going through the Review Petition of Shri O.H. Sirohi, Ex. T.A. II and other relate records of the case, it is observed that the petitioner was charged for acceptance/dispatch of BR Rice stocks in special Ex. Mansa to Bilaspur (M.P.) during October, 1999 which invited a quality complaint and LAS of Rs. 28.38 Lacs from the consignee. He was afforded an opportunity of joint inspection of stocks under complaint at the destination, but he deliberately did not avail of the same as he knew that stocks accepted by him were not conforming to laid down specifications of URS Rice. The purpose of procurement and dispatch of stocks to consuming State/Region to meet the requirement of PDS was thus defeated, besides incurring huge transportation and handling expenses by FCI and the stocks ultimately had

been disposed of through tender sale. The contentions now reiterated by the petitioner have already been examined by the Disciplinary and Appellate Authorities. Besides, there is no other reason to differ with the orders passed by the above authorities and the Review Petition which is devoid of any merit is liable for rejection.”

3. The challenge to order of the Disciplinary Authority/Appellate Order and Review Order by petitioner’s counsel is on the ground that in the absence of any documentary evidence to show as to how much quantity of rice stocks were accepted by petitioner, it is not proper to make petitioner accountable for the reported quality deficit. It is pointed out that if any stock accepted by petitioner was of inferior quality, then the said stock should not have been included in the priority list. It is submitted on behalf of petitioner that during the span of five days, only limited consignments were accepted by him as he stood relieved from Mansa centre on 10th August, 1989 and so, petitioner should not be made answerable for the entire quality deficit. It is submitted by petitioner’s counsel that petitioner has not supervised the loading of rice and its dispatch.

4. Learned counsel for petitioner submits that petitioner was not called for joint inspection and to submit so, attention of this Court is drawn to a Communication of 3rd/5th August, 2000 (Annexure P-6). Learned counsel for petitioner submits that the defence brief (Annexure P-4 Colly) has not been considered by the authorities concerned and so, the impugned penalty deserves to be set aside.

5. Learned counsel for respondent-FCI submits that impugned orders are well-reasoned and so, this petition deserves dismissal.

6. Upon hearing, on perusal of impugned orders and the material on record, I find that in matters of disciplinary proceedings, this Court in exercise of its powers under Article 226 and 227 of the Constitution of India cannot venture into re-appreciation of evidence or interfere with the conclusion arrived at by the Inquiry Officer and this Court cannot go into reliability and adequacy of evidence in order to correct the errors of fact. What is required to be considered is whether the inquiry was held by the competent authority in accordance with the Principles of Natural Justice and the established procedure and if there was any exclusion of admissible evidence, which could render the orders impugned vulnerable. All that which is required to be seen is whether the findings of concerned authorities in the impugned orders are arbitrary, capricious or are based on no evidence. In the instant case, a complaint was received regarding financial loss of ₹ 28 lacs odd due to dispatch of sub-standard rice from the Mansa Centre and the said complaint was investigated. Upon inspection of the stock, it was found that the complaint made was genuine. A memo was issued to petitioner and an opportunity of hearing was also granted to petitioner. Even if, adverse inference is not drawn against petitioner on account of his non-participation in the joint inspection, still, in the face of evidence on record, the findings returned against petitioner cannot be faulted with.

7. The submissions made by petitioner's counsel to persuade this Court to take a contrary view, lacks substance as the Inquiry Officer has

aptly analyzed the evidence on record and rightly holds petitioner guilty of the charge framed against him. Even at the Appellate stage, petitioner was provided opportunity of hearing.

8. The reviewing authority in the impugned order (Annexure P-11) has rightly not interfered with the orders of disciplinary and appellate authorities as the penalty inflicted upon petitioner is commensurate with the misconduct committed by him.

9. Without delving deep into the merits of the case, this Court finds that the impugned orders neither suffers from vice of arbitrariness nor it can be said that the impugned orders are capricious. The punishment inflicted upon petitioner cannot be said to be disproportionate. Hence, I find no justification to interfere with the impugned orders.

10. Consequentially, this petition deserves dismissal and accordingly, it is dismissed.

MAY 10, 2018

s/p

**(SUNIL GAUR)
JUDGE**