

Supreme Court of India

Food Corporation Of India vs B.J. Jambulkar on 12 November, 1997

Equivalent citations: 1999 (81) FLR 67, JT 1998 (8) SC 131, (1998) 9 SCC 440

Bench: S V Manohar, D Wadhwa

ORDER

1. This appeal by the Food Corporation of India (for short "Corporation") is against the judgment dated 27-7-1992 of the Division Bench of the Madhya Pradesh High Court whereby the High Court set aside the order of removal from service of the respondent but at the same time left it open to the Corporation to take steps as might be available to it under the law in respect of certain charges of misconduct against the respondent relating to the period from 1976 to 1979.

2. The respondent was appointed as Godown Clerk on 3-2-1964 by the Regional Director, Ministry of Food and Agriculture, Government of India and his services were subsequently transferred to the Corporation. On 13-1-1972 the respondent was promoted as Assistant Grade II. Disciplinary proceedings were initiated against him and he was served with six articles of charges as under:

"(i) Manipulation in the receipt weight of 6494 bags received on 13-12-1980 to the extent of 624-96-000 quintals.

(ii) Excess issue of 68-50-000 quintals urea in July 1980 resulting in loss of Rs 1620.93 paise to the Corporation towards interest.

(iii) Shortage of 2-83-000 quintals of sugar during the physical verification of Mandla Depot in 1976-77 and shortage of 9-62-000 quintals of sugar noticed during the salvaging operations during the period 29-9-1975 to 8-3-1977.

(iv) Non-compliance of orders regarding issue of stocks on 24-9-1979 at Kokila Godown.

(v) Abnormal storage loss to the tune of 31,47,030 quintals of wheat during May to September 1979.

(vi) While functioning as Depot-in-Charge at Kokila Depot, intentionally kept the depot records pending."

3. Since the respondent denied the charges, an Enquiry Officer was appointed and enquiry proceedings commenced on 17-5-1983 and completed on 23-8-1983. In the enquiry the respondent was assisted by a Defence Assistant. On the date when the enquiry proceeding concluded the following minutes were recorded which were duly signed by the Enquiry Officer, Presenting Officer, Defence Assistant as well as the respondent which are as under:

"Abstract of proceedings dated 23-8-1983 at p. 11 EO: DO/DA If you want to produce or record the statement of DO for his self-witness if any can be produced?

DA: No, I don't want to examine my DO as his self-witness, further I do not want to produce any further documents for defence.

EO: Are you satisfied by the facilities provided to you during inquiry by the EO in all respects?

DA: Yes, I satisfied with the facilities provided by EO during the enquiry and there is no complaint from our side.

ENQUIRY COMPLETED AND CLOSED."

The Enquiry Officer held the charges proved against the respondent. Disciplinary authority agreeing with the findings of the Enquiry Officer awarded punishment of removal from service of the Corporation on the respondent. The appeal filed by the respondent before the appellate authority under the Rules was dismissed on 15-5-1985. His review petition was also dismissed. The respondent challenged his order of removal from service by filing writ petition in the Madhya Pradesh High Court which, as noted above, was allowed and his removal from service set aside. The High Court was of the opinion that the enquiry was vitiated on two counts:

"(1) that a charge in respect of which no enquiry should have been held was included, i.e., for the period 1980 and 1981 was also enquired in the said enquiry thereby vitiating the enquiry as a whole;

(2) further the petitioner was not given sufficient opportunity to defend by supply of documents asked for, not giving the inspection of documents, and using the material documents which were not made available and further bringing in additional documents at the last stage of enquiry and giving no opportunity to the delinquent employee in respect of the same vitiates the enquiry."

4. In this view of the matter, the High Court did not go into the question if the services of the respondent were terminated by an officer who was lower in rank than the person who appointed him. As regards the first point on which the High Court was inclined to hold that enquiry proceeding stood vitiated related to the second article of charge. In this case only an explanation was called for by the District Manager of the Corporation from the respondent and to which he had replied. The person who had called for the explanation was not the one competent to hold any enquiry against the respondent. The High Court, therefore, was not correct in holding that this charge should not have been included with other charges. In any case the inclusion of this charge could not vitiate the whole of the enquiry regarding other charges as well. Proceedings of 23-8-1983 before the Enquiry Officer are self-evident to show that enquiry had been conducted keeping in view the principles of natural justice. The argument that documents were not supplied or inspection of those documents not given is quite an afterthought. Learned counsel for the respondent was unable to tell us as to when the respondent has asked for supply of certain documents or when he had requested for inspection of certain documents and what those documents were, which request of the respondent was not accepted. We find no substance in this plea of the respondent. Again learned counsel for the respondent has not been able to tell us as to how it could be said that services of the respondent were terminated by an officer who was lower in rank.

5. After considering the whole aspect of the matter, we are of the view that the enquiry was properly conducted against the respondent and the authorities were correct in imposing punishment of removal from service. The High Court was not justified in interfering in the matter. Accordingly, the appeal is allowed, the impugned judgment dated 27-7-1992 of the High Court is set aside and the writ petition filed by the respondent is dismissed. There will, however, be no order as to costs.