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2026:GAU-AS:6330-DB

THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/316/2024

1.THE FOOD CORPORATION OF INDIA AND 3 ORS
REPRESENTED BY THE CHAIRMAN-CUM-MANAGING DIRECTOR,
16-20, BARAKHAMBA LANE, NEW DELHI-1

2: THE EXECUTIVE DIRECTOR NE,
FOOD CORPORATION OF INDIA,
G.S. ROAD, ULUBARI, GHY-7.

3: THE GENERAL MANAGER REGIONAL,
FOOD CORPORATION OF INDIA,
G.S. ROAD, ULUBARI, GHY-7.

4: THE AREA MANAGER,
FOOD CORPORATION OF INDIA,
STEAMERGHAT ROAD, SILCHAR, DIST- CACHAR
ASSAM, PIN-788001.

……***..Appellants***

-VERSUS -

JAYANTA MOHAN SINGHA,
S/O MERACHAW SINGHA,
R/O RAMNAGAR TUKU, RAMNAGAR, SILCHAR,
DIST- CACHAR, ASSAM, PIN-788003.

……***..Respondent***

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

For the Appellant(s) : Mr. P.K. Roy, Senior Advocate assisted by Mr. S.K. Chakraborty, Advocate.

For the Respondent(s) : Mr. S. Borthakur, Senior Advocate assisted by Ms. P. Borah, Advocate.

Date of hearing : 07.05.2026.

Date of judgment : **07.05.2026**.

JUDGMENT & ORDER (ORAL)

(Ashutosh Kumar, CJ)

We have heard Mr. P.K. Roy, learned Senior Advocate, assisted by Mr. S.K. Chakraborty, learned Advocate for the appellants/*Food Corporation of India (in short, "FCI") & 3 Ors.* and Mr. S. Borthakur, learned Senior Advocate, assisted by Ms. P. Borah, learned Advocate for the sole respondent.

2. The appellants have questioned the judgment dated 22.05.2024 passed by a learned Single Judge of this Court in WP(C) No.4423/2012, whereby the decision of the Disciplinary Authority in finding the respondent responsible for the shortage of foodgrains in the FCI shed was upheld but an interference was made with respect to the punishment of removal from service with forfeiture of gratuity imposed upon him and the same was reduced to compulsory retirement with no

forfeiture of gratuity.

3. The respondent, at the relevant time, was the In-charge of an FCI food godown in his capacity as Assistant Grade-II Officer. He was served with a charge-sheet with the allegation of causing shortage of about 4000 bags which amounted to loss of approximately 2,000 quintals of foodgrains between July, 2010 and September, 2010.

4. The Disciplinary Authority did not find the reply of the respondent convincing. In the departmental inquiry which ensued, the charges against the respondent were found to be fully proved. He was thereafter subjected to punishment of removal from service and forfeiture of gratuity. The appeal preferred by him before the Statutory Appellate Authority was dismissed.

5. Before the learned Single Judge, the contention raised on behalf of the respondent was that he had had an unblemished record of about 34 years in the FCI and he had discharged his duties with full responsibility bestowed upon him.

The other ground of challenge was that there was no finding of misappropriation against him. The inference of misappropriation was made only because of the proved shortage of foodgrains. He was the Shed In-charge in the district office at Silchar. He was not the only person who was responsible for managing the shed or for its maintenance. At the relevant time, there were many other officers working who along with him also shared similar responsibility.

6. What was harped upon by the respondent was that it was the collective responsibility of all the officers towards maintenance and

supervision of the FCI Shed in question. The further ground of challenge before the learned Single Judge was that forfeiture of penalty is not listed as one of the major punishments and such punishment could not have been imposed upon him.

7. That apart, it was urged that even in accordance with the Circulars issued by the Food Corporation of India, there was an insistence on the adherence on procedural formalities in cases of shortage and transit loss cases. Such Circular was issued in the background of serious resentment by the employees in the event of any shortage of foodgrains which was being noticed. The experience in the past had been that only one or two employees were picked up for being proceeded against without caring for the collective responsibility and, therefore, the collective culpability.

Under such circumstances, the circular was issued to all concerned authorities that no recovery should be directed with respect to storage and transit losses without a definite finding of either theft or pilferage or of *mala fides* of the proceedees.

8. In the present case, the respondent had argued that every responsibility was thrust upon him only on the ground of finding of shortage of huge quantity of foodgrains, which was detected during audit but such shortage was not specifically stated to have been caused within a short period. He contended that those could be relatable to remote past which also could be attributable to lack of proper maintenance of the Shed.

9. No evidence came forth with respect to any theft or pilferage

or any *mala fides* on the part of the respondent.

10. The learned Single Judge, after hearing the parties, was of the view that before him there was no effective challenge to the manner in which the disciplinary proceedings was concluded nor was it alleged that the proceedings were carried through against the respondent in breach of the procedures prescribed in relevant regulations. There were no infraction of natural justice which was very obvious from the perusal of the inquiry report.

11. What was argued before the learned Single Judge, it was observed, was that there was no fact finding with respect to any misappropriation by the respondent or any loss having occasioned because of any overt irresponsibility of the respondent in his capacity as the Shed In-charge.

12. The learned Single Judge did not agree with the submissions of the employer/the Disciplinary Authority that conclusions of theft or pilferage or misappropriation leading to loss of foodgrains and consequential financial losses can only be arrived at on the basis of the inquiry report and evaluation of facts and materials which are available.

The learned Single Judge found such inferential guilt fixation to be not in accordance with the principles of service jurisprudence. There had to be specific finding based on evidence with respect to either theft or pilferage leading to loss of foodgrains, thereby causing financial losses to the FCI for the respondent to have been subjected to harshest of the penalties of removal from service and forfeiture of his gratuity without giving due consideration to the fact that for the last 34 years, there was

no complaint against him from any quarter and that the losses could have been caused over a period of time when he might not have been the In-charge of the Shed in question.

While postulating that a Writ Court cannot act as an appellate forum for reviewing punishment imposed upon a proceedee and that its jurisdiction only pertains to examining the process of decision making by the Inquiry Officer and by the Disciplinary Authority but in the present case, the way the punishment was imposed upon the respondent did not find favour with the learned Single Judge. The report of the inquiry was thus left untouched because nothing could be shown on behalf of the respondent that the rules of natural justice were breached or that the findings or the conclusions were not based on evidence except for the cause of such losses.

13. Under the circumstances, the learned Single Judge found that for the punishment to be condign, it was necessary to reduce it from removal from service to compulsory retirement and doing away with the punishment of forfeiture of gratuity as that is not one of the punishments listed in the Rules and which was also subject to a separate proscription/restriction, namely, the Payment of Gratuity Act, 1972.

14. On the issue of remanding the matter to the Disciplinary Authority for passing a fresh order with respect to the punishment, the learned Single Judge was of the view that for the efflux of time, it would not be appropriate to do so and the Court itself proceeded to make alterations in the sentence.

15. Mr. P.K. Roy, learned Senior Advocate for the appellants/FCI,

while assailing the judgment impugned has submitted that perhaps the learned Single Judge has substituted his own views regardless of the reasons given by the Disciplinary and the Appellate Authority for doling out the harshest of the punishments to the respondent, one being that it was necessary to send the message across the employees to be careful in future.

16. This could be no convincing reason to justify a punishment because the principle enshrining imposition of punishment is that it should not be more drastic than is necessary.

17. The second argument raised on behalf of the appellants/FCI is that the punishment of removal from service of the respondent in the afore-noted factual circumstance cannot be said to be shocking to the judicial conscience and in that case, no interference ought to have been made.

18. There is no gainsaying that the role of the Courts/Tribunals is purely secondary in cases not involving fundamental freedoms. So far as proportionality in imposing punishment is concerned, normally, the Wednesbury test is to be applied to find out if such decision is illegal or suffers from procedural improprieties or is one which no sensible decision-maker could, on the materials before him and within the framework of law, have arrived at. The Courts are but perfectly entitled to consider whether relevant materials had been taken into account or whether the decision making was based on irrelevant matters. The Court can also consider whether the decision was disproportionate, absurd or perverse.

19. Long before, it has been held and the same line of reasoning is

applied even today that a Court would not normally go into the correctness of the choice made by an administrator amongst the various alternatives open to him nor would the Court substitute its decision to that of the administrator but in case it is found from the facts and circumstances that the punishment imposed upon a proceedee is disproportionate to the guilt arrived at, a Court of law would be entitled to interfere with the same.

20. In the strictest of the terms, a sentence imposed upon a proceedee could be described to be irrational only if it is in outrageous defiance of logic. However, a question always confronts the Courts as to the parameters on which the issue of proportionality could be judged. The essential facts of the case, the conduct of the proceedee, the losses having been caused to the employer, the nature of the charge, the stage of life of the proceedee and many other factors would have to be taken into consideration for testing the proportionality of the sentence imposed upon such a proceedee. [Also refer to ***Ranjit Thakur -Vs- Union of India & Ors. :: (1987) 4 SCC 611*** and ***Union of India & Anr. -Vs- G. Ganayutham :: (1997) 7 SCC 463]***

21. In our estimation, with the respondent having retired from service during the pendency of the writ petition preferred by him, and he having served 34 years without any charge levelled against him in the past and there being no specific finding of any theft or misappropriation or *mala fides* on his part, we do not consider it appropriate to interfere with the modification/reduction in the sentence by the learned Single Judge.

22. We say so also for the reason that the departmental proceeding against the respondent was started about 16 years ago.

23. For the afore-noted reasons, we approve of the finding/opinion of the learned Single Judge. We have not been persuaded to take any different view in the matter.

24. This appeal thus is dismissed.

JUDGE **CHIEF JUSTICE**

Bijoy Sarma

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Comparing Assistant