

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.8132 OF 2012**

**FOOD CORPORATION OF  
INDIA & ORS.**

**APPELLANT(s)**

**VERSUS**

**SHYAMAL KUMAR BOSE & ORS.**

**RESPONDENT(s)**

**O R D E R**

1. The present appeal has been filed impugning the order dated 07.12.2011 passed by the High Court<sup>1</sup> in FMA NO.1181/2010.

2. A perusal of the record shows that notice in the Special Leave Petition filed by the appellant was issued on 23.04.2012 and operation of the impugned judgment was stayed.

3. The order passed on 23.07.2012 records that service of all the respondents was complete and they were represented through a counsel. On 05.11.2012, leave was granted and interim order dated 23.04.2012 was made absolute.

<sup>1</sup> The High Court at Calcutta.

4. Various orders passed thereafter show that on number of occasions the respondents were not represented. The latest order being of 24.01.2024. Even today, when the case was taken up for hearing, no one had represented the respondents.

5. In the aforesaid factual matrix, the appeal being more than a decade old where the litigation started way back in the year 2005. We have heard learned counsel for the appellant.

6. The arguments raised are two folds.

7. Firstly, it was argued that the writ petition<sup>2</sup> was filed by the respondents before the High Court 15 years after some other employees had been granted higher scale by a judgment of the High Court in C.O. No. 21(W)/1989 dated 06.11.1990 (Food Corporation of India Deputationist Association & Ors. v. Food Corporation of India & Ors.). Such a writ petition deserved

2 W. P. No. 19898 (W) of 2005.

to be dismissed on account of delay and laches only and was in fact dismissed by the learned Single Judge on that ground. However, the division Bench has taken a different view while ignoring the ground of delay and laches in filing the writ petition and granted the respondents higher pay scales which in fact had been given to other employees who were working on a higher post, namely Assistant Grade-II, whereas the respondents herein were working as Assistant Grade-III. Both the posts, not being equal in the hierarchy, could not have been granted the same pay scale.

8. To elaborate the facts, it was further submitted that the respondents as well as the writ petitioners in C.O. No. 21(W)/1989 were working with the food department of State of West Bengal. They were taken on deputation to work with the Food Corporation of India, and they were absorbed in the corporation from time to time. The order of absorption of the

respondents in the corporation was passed on 05.10.1985 specifying therein that they will be absorbed with effect from 01.07.1984 as Assistant Grade-III on a particular pay scale. They never raised an issue.

9. The writ petitioners in C.O. No. 21(W)/1989 had been granted higher pay scales only because they were performing duties of a higher post. The respondents could not seek parity with them.

10. We have perused the paper book.

11. As far as the first issue is concerned regarding filing of the writ petition by the respondents before the High Court, about 15 years after some relief of pay scale was granted to the writ petitioners in C.O. No. 21(W)/1989, in our view, the writ petition deserved to be dismissed on account of delay and laches only and in fact the Single Judge had rightly done so. An employee may have a right but to enforce that right he has to approach the Court within reasonable time.

Period of 15 years is too long to condone even if there may not be any limitation prescribed for filing of the writ petition. Even repeated representations also do not come to the rescue of the respondents/writ petitioners to keep the cause of action alive.

12. Another factor which is relevant is that the respondents were absorbed in the corporation vide order dated 05.10.1985 as Assistant Grade-III on a specific pay scale, which they had accepted and continued serving with the corporation.

13. Reference for the purpose can be made to judgment of this Court in State of Orissa & anr. v. Laxmi Narayan Das (Dead) thr. LRs & ors<sup>3</sup>.

14. As far as the issue on merits is concerned, the stand taken by the appellant is that the writ petitioners in C.O. No. 21W/1989 were granted higher pay scales by an order passed by the High Court as they

were performing duties of a higher post. They were ultimately absorbed on that higher post whereas the respondents continued working on the post of Assistant Grade-III. They never performed the duty of any higher post. Hence, could not claim parity of pay scales with them.

15. For the reasons mentioned above, the present appeal is allowed and the impugned order passed by the Division Bench is set aside and that of single Bench is restored.

16. Pending application(s), if any, shall also stand disposed of.

. . . . ., J  
[RAJESH BINDAL]

. . . . ., J  
[MANMOHAN]

NEW DELHI;  
DECEMBER 10, 2025.

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.8132/2012

FOOD CORPORATION OF INDIA & ORS.

Appellant(s)

VERSUS

SHYAMAL KUMAR BOSE & ORS.

Respondent(s)

Date : 10-12-2025 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RAJESH BINDAL  
HON'BLE MR. JUSTICE MANMOHAN

For Appellant(s) : Mr. Ajit Pudussery, AOR  
Mr. Ashutosh Bamezai, Adv.

For Respondent(s) :

UPON hearing the counsel the Court made the following  
O R D E R

The Civil Appeal is allowed in terms of the  
signed order.

Pending application(s), if any, shall also  
stand disposed of.

(KRITIKA TIWARI)  
SENIOR PERSONAL ASSISTANT

(KOMAL)  
BRANCH OFFICER

{Signed order is placed on file}