

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 3504 OF 2007

Bihar State Food & Civil Supplies Corporation  
Appellant ...

Vs.

Durga Prasad Sinha  
Respondent ...

O R D E R

The respondent working as District Manager in the appellant Corporation, retired from service on 31st August, 2001.

2. When he was in service, a notice dated 17.11.2000 was issued to him stating that he was responsible for certain losses to the Corporation between 1975-76 to 1995-96, that Rs. 2,42,416.70 was due in that behalf and after giving credit to the amounts deposited by him (Rs. 2,13,510.09) a sum amount of Rs. 28,906.61 was still due from him and the said amount was being recovered from his salary. It is stated that the said amount was recovered and that he was permitted to retire from service on reaching

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the age of superannuation. When he retired, there were no pending disciplinary proceedings.

3. As his retiral dues were not released for nearly two years, he filed a writ petition in 2003 seeking a direction to the Corporation for release of his retiral dues and benefits. A learned Single Judge of the High Court, by an order dated 15.12.2004 allowed the said writ petition with a direction to the appellant Corporation to pay all retiral dues (without any interest) to the respondent within eight weeks. The appeal filed by the appellant Corporation was dismissed by a Division Bench of the High Court by

the impugned order. The Division Bench held that the retirement benefits of an employee cannot be withheld on a mere allegation that some amount was due from him on account of some misappropriation in the absence of any finding to that effect by any authority after due enquiry, or by a court. The said order is challenged in this appeal by special leave.

4. The appellant contended that its Headquarters Claims Committee had considered the case of appellant at its meeting held on 16.4.2002; that the order of the Committee recorded that the total losses of wheat stocks for which the appellant was liable had earlier been assessed as Rs. 2,42,416.70; that the total amount due on account of losses was subsequently found to be Rs. 3,23,315.17;

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that there was also an error in calculation in the cost of wheat which was pointed out by the Accountant General and that a sum of Rs.17,914.87 was due in that behalf; and that thus a sum of Rs. 1,27,719.95 had to be recovered from respondent with interest at 18% per annum from the dates of losses. It was, therefore, contended that the direction for release of retrial dues was erroneous.

5. It has rightly been held by the High Court that such an order of the Claims Committee cannot be the basis for recovery. No show cause notice was issued to respondent nor any enquiry was held before determining that an amount of Rs. 1,27,719.95 was due. The proceedings of the Claims Committee on 16.4.2002 was long after the retirement of respondent and that too without any opportunity to show cause. Merely on the basis of the order dated 16.4.2002 of the Claims Committee, the respondent cannot be held liable for loss/misappropriation of Rs. 1,27,719.95 with interest. The proceedings does not even state how the total amount due was arrived at as Rs. 3,23,315.17. The High Court was, therefore, justified in holding that his retrial benefits cannot be withheld. We find no ground to interfere. The appeal is dismissed.

.....J.

.....  
(R V Raveendran)

New Delhi;

.....J.

November 24, 2009.

.....  
(K.S.Radhakrishnan)

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ITEM NO.112

COURT NO.5

SECTION XVII

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(s). 3504 OF 2007

BIHAR STATE FOOD & CIVIL SUPPLIES COOP.

Appellant (s)

VERSUS

DURGA PRASAD SINHA  
(With office report)

Respondent(s)

Date: 24/11/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN  
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Appellant(s) Mr.Ashok Thakur, Adv.  
Mr.Ankit Srivastava, Adv.  
Mr. Praveen Swarup,Adv.

For Respondent(s) Mr.Sunil Kumar, Sr.Adv.  
Ms.Puja Priyadarshini, Adv.  
Mr.Praveen Chaturvedi,Adv.

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

The appeal is dismissed.

(Usha Bhardwaj)  
Court Master

(M.S. Negi)  
Court Master

Signed order is placed on the file.