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

+ W.P.(C) 10386/2009 & CM No.9021/2009 (for stay)

FOOD CORPORATION OF INDIA Petitioner
Through: Mr. Sukumar Pattjoshi, Adv.

Versus

CENTRAL INFORMATION
COMMISSION & ANR Respondents
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

01.08.2011

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1. None appears for the respondent No.2. He is proceeded against *ex parte*.
2. The challenge in the petition is to the order dated 11th February, 2009 of the respondent No.1 Central Information Commission (CIC) directing the petitioner to consider the case of the respondent No.2 Sh. Babulal Paswan for re-engagement after giving him an opportunity of hearing and further directing the petitioner to trace out the file relating to the service matter of the respondent No.2 and if the same is traced out, to allow inspection thereof to the respondent No.2.
3. Notice of the petition was issued only qua the direction to the petitioner to consider the case of the respondent No.2 and vide order dated 24th July, 2009 which continues to be in force, the implementation of the said part of the order stayed.

4. It is the contention of the counsel for the petitioner that the said direction is beyond the powers and jurisdiction of the CIC. It is further stated that the respondent No.2 had also preferred a writ petition being W.P.(C) No.4247/1993 in the High Court of Patna seeking mandamus to the petitioner herein to absorb him in its service and which writ petition was dismissed as withdrawn vide order dated 8th April, 1994 observing that disputed questions of fact were involved and the remedy of the respondent No.2 was to raise an industrial dispute.

5. Though the respondent No.2 has filed counter affidavit but has not been able to controvert the aforesaid.

6. The direction of the CIC to the petitioner to consider the case of the appellant for re-engagement is undoubtedly beyond the powers and jurisdiction of the CIC and has to be necessarily set aside.

7. The petition is accordingly allowed. The order dated 11th February, 2009 of the CIC directing the petitioner to consider the case of the respondent No.2 for re-engagement is set aside / quashed.

No order as to cost.

RAJIV SAHAI ENDLAW, J

AUGUST 01, 2011

‘gsr’