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WA-2103-2025

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,  
CHIEF JUSTICE

&amp;

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 28<sup>th</sup> OF AUGUST, 2025

WRIT APPEAL No. 2103 of 2025

*FOOD CORPORATION OF INDIA AND OTHERS*

*Versus*

*C.L. OMKAR*

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Appearance:

*Shri Mukesh Kumar Agrawal - Advocate for the appellant.*

*Shri Kunal Thakre - Advocate for the respondent No.1 on advance copy.*  
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ORDER

*Per. Hon'ble Shri Justice Sanjeev Sachdeva, Chief Justice*

1. Appellant impugns order dated 16.05.2024, whereby the writ petition filed by the respondent has been allowed. The appellant also impugns order dated 04.07.2025 whereby the application seeking recall of order dated 16.05.2024 has been dismissed.

2. Respondent had filed the subject petition seeking a direction to the appellant to reinstate the respondent on the post of Assistant Grade - II (Depot) w.e.f. 27.12.2004. As per the respondent/writ petitioner the respondent had opted for a voluntarily retirement on 27.09.2004 and contends that before its acceptance on 27.12.2004, he by withdrawal letter dated 05.10.2004 withdrew the application for voluntarily retirement and without considering the same he was retired.

3. Learned counsel for the appellant submits that respondent was paid the entire retiral benefits and same were accepted without a demur, however this fact



could not be brought to the notice of the Court and the petition was taken up for hearing on 16.05.2024. As per the appellant the petition was listed in the final hearing list of 05.02.2024 to 09.02.2024 at Sr. No.122 and thereafter could not be taken up. The appellant also filed an application for early hearing being IA No.4577/2024 on 01.04.2024. He submits that thereafter a final hearing list was published on 13.05.2024 for the period 13.05.2024 to 17.05.2024 and the said writ petition was not shown in the list and as such the counsel was under an impression that the matter has been dropped from the list. The petition was taken up on 16.05.2024 and the impugned order has been passed allowing the writ petition.

4. Learned counsel for the appellant also relies on the case status of the writ petition particularly the column of listing whereas against the date of 05.02.2024 it is shown that the case is to be listed in week commencing 05.08.2024, however there is no order of 05.02.2024 on record.

5. The impugned order dated 16.05.2024 has been passed in the absence of the counsel for the appellant. The contention of learned counsel for the respondent is that the earlier practice was that the final hearing list once published is not deleted till the matters are exhausted in the list and subsequent list only additions to the final hearing list.

6. Be that as it may. It is apparent from the record of the case as reflected on the website that there was a confusion as to whether the matter was to be listed in week commencing 05.08.2024 or not. Consequently, we are of the view that learned counsel for the appellant has duly explained his absence at the time of hearing of the matter on 16.05.2024. The recall application was filed solely on this ground that the learned counsel for the appellant could not appear in the matter as the matter was not reflected in final hearing list and could not make his



submissions.

7. In view of the above factual matrix, we are of the view that an opportunity of hearing needs to be granted to appellant as counsel could not address the arguments on the writ petition. Consequently, the impugned orders dated 16.05.2024 and 04.07.2025 are set aside. The petition is restored on the records of learned Single Judge to be heard on merits afresh.

8. Keeping in view the fact that petition has been pending since the year 2005 and parties have also approached the Supreme Court in the first round, we request the learned Single Judge to expeditiously consider the petition and to dispose of the same as soon as possible. List the matter before learned Single Judge for directions on 08.09.2025 as per the present roster.

9. With the aforesaid, appeal is disposed of.

**(SANJEEV SACHDEVA)**  
**CHIEF JUSTICE**

**(VINAY SARAF)**  
**JUDGE**

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