

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 803/2002

New Delhi this the 29th day of April, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Jagdish Narain Mina,
S/o Shri Hari Singh,
R/o 538, Kalyan Vas,
Delhi ... Applicant

(By Advocate: Shri A.K.Bhardwaj.proxy for Shri M.K. Bhardwaj)

vs.

1. Govt. of N.C.T. of Delhi
Through the Director (Education)
Directorate of Education
Old Secretariat
Delhi
2. Deputy Director
Dist. North East,
B Block, Yamuna Vihar
Delhi.
3. The Principal
Govt. Boys Secondary School
Kalyan Puri,
Delhi-91

(By Advocate: Shri Mohit Madan, proxy for
Mrs. Avnish Ahlawat)

O R D E R (ORAL)

Justice V.S. Aggarwal:-

Applicant (Shri Jagdish Narain Mina) was appointed as part time Waterman in April 1992. In April 1994, a case punishable under Section 302/34 Indian Penal Code was registered against the

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applicant and others as a result of which his services were dispensed with. On his representation, he was informed that his case should be considered only after the final outcome of the criminal case. In April 1999, the applicant was acquitted by the court of Sessions. Thereupon, he submitted a representation that he should be reinstated in service. The representation had been rejected. By virtue of the present application, he seeks setting aside of order whereby his representation to take him back in service had been rejected ~~so~~ ² that he should be appointed on regular basis.

2. In the reply filed, it has been pointed that the services of the applicant were dispensed with and the applicant was informed about it. It is admitted that the applicant had been engaged as a part time Waterman in the year 1992. His services were terminated due to his continuous absence without any intimation after 10.9.1994. He was involved in a heinous crime punishable under Section 302/34 of the Indian Penal Code. Since the applicant was engaged as seasonal part time worker and had absented himself from duty and because of his involvement in the criminal case, his services had been terminated and after acquittal, he has no right to claim that he is entitled to reinstatement.

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3. The learned counsel for the applicant while making submissions relied upon a decision of this Tribunal in the case of Rama Nand v. Union of India & ors. in OA No. 1165/2002 rendered on 4.12.2002. In the case of Rama Nand (supra), he was a Mazdoor and even was promoted as a Driver in 1972. He was involved in a criminal case and the learned court of Sessions had sentenced him to undergo imprisonment for life besides fine. He had preferred an appeal and subsequently he had been acquitted by the High Court of Judicature at Jodhpur. It was in this back-drop that this Tribunal held that he was entitled to reinstatement. The decision in the case of Rama Nand (supra) has little application in the facts of the present case. Rama Nand (supra) like the applicant was not a part time worker. He was regularly appointed and even had been promoted. Since he was dismissed from service keeping in view the conviction from the court of Sessions, on acquittal, he was directed to be reinstated. It is not so in the present case. Therefore, we have no hesitation in stating that the decision rendered in the case of Rama Nand (supra) will not apply or help the applicant.

4. Reverting back to the facts of the present case, it is obvious that the status of the applicant was that of a part time worker. In that

A handwritten signature in black ink, appearing to read "M. A. G." followed by a stylized line.

process, he had no right to the post. In the absence of any right to the post, if his services were dispensed with then any subsequent event will not confer a corresponding right on him to seek that he should be reinstated in service to the same post. The status of the applicant, therefore, in this regard is a tilting factor.

5. Our attention has been drawn to some of the correspondence in this regard to show as to whether the applicant was a part time worker and also if he could be appointed on regular basis. In this regard particulars have been claimed by the department. These have been so claimed after the order had been passed terminating his services. This is a usual correspondence but corresponding right to hold a post in any event would not accrue to the applicant. Almost a similar situation had arisen in the case of Union of India & Ors. v. Shri Bihari Lal Sidhana, JT 1997 (4) S.C.541. Therein Shri Bihari Lal Sidhana was a temporary servant. His services were terminated and he too on acquittal claimed that he is entitled to reinstatement in service. The Supreme Court held that it is open to the competent authority to terminate the service of such an employee instead of conducting the enquiry. The claim of Shri Bihari Lal Sidhana in this regard was rejected. By and large, identical are the facts of the

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present case.

5. In that view of the matter, we have no hesitation in holding that the application is totally devoid of merit. Resultantly, the application is dismissed. No costs.

Announced

(Govindan S. Tampi)
Member (A)

/shs/

V.S. Aggarwal

(V.S. Aggarwal)
Chairman