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**Central Administrative Tribunal
Principal Bench**

RA No.34 of 2006

In

OA No.739/2002

New Delhi this the 15th day of September, 2006.

Hon'ble Mr. V.K. Majotra, Vice-Chairman (A)

Hon'ble Mr. Shanker Raju, Member (J)

1. Union of India through,
the Secretary,
Ministry of Law, Justice & Company Affairs,
Vth Floor, A-Wing, Shastri Bhawan,
Dr. Rajender Prasad Road,
New Delhi-110001.
 2. Regional Director (NR),
Department of Company Affairs,
10/499-B, Allenganj,
Kanpur (UP).
 3. Official Liquidator,
Attached to Ponjab, Haryana Power
And H.P. High Court,
SCO No.19, II Floor,
Sector-26, Chandigarh (UT).
- Applicants

(By Advocate Shri Rajeev Bansal)

-Versus-

Nitish Sharma,
S/o Late Shri R.P. Sharma,
R/o D-109/A, Gali No.1,
Burari Road, Saroop Nagar,
Delhi-110 042.

-Respondents

(Applicant in person)

O R D E R (ORAL)

Mr. Shanker Raju, Hon'ble Member (J):

This RA has been preferred by the respondents in OA seeking, modification in review of the directions issued in

paragraph 8 (iii) of the order, passed in OA-739/2002 on 25.9.2003.

2. Brief factual matrix suggests that applicants who barely after working for one month was removed from service vide order dated 12.9.2000, which when assailed before this Tribunal, the following directions have been issued:

"i) The impugned termination order dated 12.9.2000 is quashed and set aside.

ii) The respondents are directed to reinstate the applicant in service within one month from the date of receipt of a copy of this order and pass such necessary orders as required, in accordance with the directions of the Hon'ble Supreme Court's order dated 27.8.1999 (supra).

iii) The applicant shall be entitled to back wages in the post of Junior Stenographer with effect from one year prior to the date of filing of the OA, i.e., 13.3.2001 but he shall be entitled to continuity of service from the date of his earlier appointment in that post and other consequential benefits as given to similarly situated persons who were directed to be absorbed, as held by the Hon'ble Delhi High Court in the order dated 5.5.2003 (supra). The respondents shall also keep in view the orders passed by the Hon'ble Calcutta High Court in the order dated 26.3.2001 (supra).

iv) In the circumstances, liberty is granted to the respondents to proceed against the applicant for the alleged unauthorized absence from duty, in accordance with law."

3. Being aggrieved with the order of the Tribunal WP(C) No.13324/2004 preferred by the respondents before the High Court of Delhi was disposed of on 29.11.2005, wherein reinstatement of applicant having been upheld, liberty by way of review has been granted to respondents regarding payment of back wages.

4. As original applicant, who appeared in person contends that on liberty to hold a disciplinary enquiry (DE) against applicant a recommendation has been made by respondents to drop the (DE) against him for unauthorized absence, in such an event period from the date of termination till the date of reinstatement has to be treated as spent on duty for all purposes as per FR 53.

5. On the other hand, learned counsel of review applicants/original respondents stated that final orders have not been passed in the disciplinary proceedings but only a recommendation has been made to drop the DE, in such an event applicant, who was absent from duty, is not entitled to the back wages and accordingly prays that directions be modified, as respondents have been accorded liberty by the High Court.

6. On careful consideration of the rival contentions of the parties, insofar as reinstatement and continuity of service is concerned, High Court of Delhi has not upset the order of the Tribunal and hence the direction has attained finality.

7. Insofar as back wages are concerned, we deem it appropriate to dispose of this RA with a direction to respondents in the light of the decision of the Apex Court in **K.V.S. v. S.C. Sharma**, (2005) 2 SCC 363, that the interregnum, i.e., the period from the date of termination from 12.9.2000 till reinstatement of applicant in 2003 shall be regulated on conclusion of the disciplinary proceedings and a final order thereof passed in accordance with rules and instructions on the subject, i.e., FR and also in accordance with law.

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8. With the aforesaid observations RA is disposed of and the OA is modified insofar as directions contained in paragraph 8 (iii) are concerned.

S. Raju
(Shanker Raju)
Member (J)

V.K. Majotra
(V.K. Majotra)
Vice-Chairman(A) 15.9.06

'San.'