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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.697/2002

This the 5th day of December, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Swadesh Ranjan S/O Shiv Dayal Singh,
PET, Govt. Boys Sr. Secondary School,
Gokulpur Village, E-Block, Delhi-94,
R/O 82/3 Shakti Vihar,
Sadat Pur, Delhi-110094.

... Applicant

(By Shri K.P.dohare, Advocate)

--versus--

1. Govt. of NCT of Delhi through
Chief Secretary,
Govt. of NCT of Delhi,
5, Shamnath Marg, Delhi-54.
2. Secretary (Education),
Govt. of NCT of Delhi,
5, Shamnath Marg, Delhi-54.
3. Director of Education,
Govt. of NCT of Delhi,
O/o Director of Education,
Old Secretariat,
Delhi-54.

... Respondents

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

O R D E R

Applicant is aggrieved that respondents have not paid arrears of pay for suspension period and also not granted him annual increments during the pendency of a criminal case against him in which he was honourably acquitted. Respondents have paid the arrears of pay on 27.12.2001. However, they have not made payment of interest on increments and on delayed payment of arrears of pay from 4.5.2000 till the actual date of payment, i.e., 27.12.2001.

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2. According to applicant, on the basis of a complaint lodged by his neighbour, he remained in judicial custody from 14.2.1991 to 18.3.1991. On release from custody on 18.3.1991, applicant made an application to the department about his arrest by police on 13.2.1991. He remained under suspension from 13.2.1991 to 29.6.1992. He was acquitted from the criminal charges vide judgment of the XV Addl. Sessions Judge, Ghaziabad, UP on 4.5.2000 (Annexure A-5). As per Annexure A-11 dated 27.6.2001, applicant's suspension w.e.f. 13.2.1991 to 28.6.1992 has been treated as spent on duty for all purposes under FR-54-A. However, on the ground that applicant had not informed particulars of the exact FIR against him, it was observed that he had failed to maintain absolute integrity and as such was given a recordable warning and that he should be more careful in future.

3. The learned counsel of applicant has relied on the provisions of FR-24 stating that respondents have not granted applicant any increments during the pendency of the criminal case against him although these increments had not been withheld by the competent authority by any formal orders. The learned counsel also relied on *M.R.Gupta v. Union of India*, 1995 (5) SCALE 29 (SC) and *Union of India v. K.V.Jankiraman*, 1991 (2) SCALE 423 (SC) contending that applicant is entitled for all benefits of service including pay as he was acquitted in the criminal charges levelled against him. The learned counsel also stated that applicant had provided information about the FIR against him to respondents.



4. On the other hand, respondents have stated that applicant had informed respondents about the details of the FIR against him as FIR No.85-A/91. The police authorities, District Ghaziabad, vide their letter dated 21.1.1997 informed respondents that in FIR 85-A/91 applicant himself was the complainant and actually the FIR on the basis of which he was detained was FIR No.85/91, therefore, he had submitted wrong information and applicant was issued recordable warning. However, respondents have accepted that applicant's suspension period was treated as spent on duty after he was acquitted in the criminal case against him.

5. Applicant is stated to have filed a separate OA No.1095/2002 challenging the penalty of recordable warning against him. That OA was disposed of by order of 4.10.2002. It was held in the order that applicant had failed to maintain absolute integrity while informing about the particulars of the FIR against him.

6. For the purpose of the present case, it is immaterial whether applicant had provided wrong particulars of the FIR filed against him. The fact remains that he has been acquitted in the criminal case against him and on the basis of that suspension period of applicant from 13.2.1991 to 29.6.1992 has been treated as on duty for all purposes. Respondents have not stated that they have passed any orders why applicant should not be granted increments taking into account the period of suspension and the period thereafter. FR-24 reads as follows :

"F.R. 24. An increment shall ordinarily be drawn as a matter of course unless it is withheld. An increment may be withheld from a Government servant by the Central Government or by any authority to whom the Central Government may delegate this power under Rule 6, if his conduct has not been good or his work has not been satisfactory. In ordering the withholding of an increment, the withholding authority shall state the period for which it is withheld, and whether the postponement shall have the effect of postponing future increments."

As respondents have not passed any orders regarding withholding applicant's increments, he is entitled for grant of increments as he has ultimately been acquitted from the criminal charge and the period of suspension has also been treated as spent on duty for all purposes. The ratios of the cases of M.R.Gupta (supra) and Jankiraman (supra) are also applicable in the present case.

7. Having regard to the above discussion, respondents are directed to consider granting arrears of pay and allowances to applicant for the period of suspension, i.e., 13.2.1991 to 29.6.1992 as also to consider granting increments of pay from 29.6.1992 till the date of acquittal on 4.5.2000, as per law. Applicant shall be entitled to interest at the rate of 10% per annum on the above payments with effect from 4.5.2000 till the date of actual payment.

8. The OA is allowed in the aforesated terms. No costs.


(V. K. Majotra)
Member (A)

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