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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA NO. 481/2002

This the 28th day of October, 2002

HON'BLE SH. KULDIP SINGH, MEMBER (J)  
HON'BLE SH. S.A.T. RIZVI, MEMBER (A)

Badri Prasad  
Constable of Delhi Police  
R/o Vill. Ganwari PO. Patten  
PS. Rajgarh, Distt. Alwar (Raj.)

(By Advocate: Sh. Anil Singh)

Versus

1. Commissioner of Police,  
Police Head Quarters,  
I.P.Estate, New Delhi.
2. DCP (PCR)  
Police Head Quarters,  
I.P.Estate, New Delhi.

(By Advocate: Sh. Ashwani Bhardwaj proxy for  
Sh. Rajan Sharma)

**O R D E R (ORAL)**

By Sh. Kuldip Singh, Member (J)

Applicant in this OA has impugned order Annexure A-1  
vide which he has been ordered to be reinstated in service as  
per the directions given in the Tribunal's judgment dated  
18.4.2001. While allowing the OA the Court ordered that  
respondents are directed to reinstate the applicant in service  
with consequential benefits in accordance with the relevant  
rules and instructions.

2. In compliance with the directions given in the OA  
respondents have passed order dated 16.8.2001 (Annexure A-1).

3. Applicant has a grievance that the respondents has not  
allowed the back wages which is illegal. Since the Court has  
allowed the reinstatement with all consequential benefits and  
according to the applicant consequential benefits means

backwages also. Counsel for respondents submits that in this case impugned order had been quashed only on technical grounds and while allowing the OA court did allow the consequential benefits but the same are to be allowed under relevant rules and instructions and relied upon Rule FR 54 (A) which provides that once the applicant was reinitiated without holding any further enquiry and the intervening period from the date of removal to the date of reinstatement was treated as spent on duty, the applicant is liable to be paid the full pay and allowances for the period to which he would have been entitled had he not been removed from the service.

4. Counsel for respondents has referred to a judgment reported in 2000 (10) SCC 146 Vinod Bhanti vs. State of Bihar and others where the Court has observed as under:

"Service Law - Back wages - cannot be allowed for the period employee did not actually work."

5. Counsel for respondents has also referred to another judgment reported in 2002 (6) SCC 41 Hindustan Motors Ltd. vs. Tapan Kumar Bhattacharya and another where the Court has observed as under:

"Labour Law - Back wages - Determination of entitlement to and quantum of - While setting aside the order of discharge or dismissal and directing reinstatement, held,

back wages should be awarded and if so, to what extent - Industrial Tribunal and Division Bench of High Court erred in proceeding on the assumption that quashment of dismissal order should be followed by reinstatement with full back wages as a matter of course - Since there was non-application of mind to this aspect by the Industrial Tribunal and the matter was more than 22 long years old, instead of remanding the case, Supreme Court itself reducing the quantum of back wages to 50% - Industrial Disputes Act, 1947, S. 11-A - Constitution of India, Art. 136.

Labour Law - Back wages - Interest - In case of non-payment within the time granted by Supreme Court, held, the amount of back wages would carry interest @ 9% p.a."

6. Relying upon the judgment, we find that since this Court has given the direction to the respondents to allow the consequential benefits in accordance with relevant rules and instructions. So the respondents are empowered to invoke the rules as contained in FR 54 (A). It appears that while invoking FR 54 (A) respondents have not properly applied the same as it provides that the competent authority may determine the question of payment of back wages after giving notice and after consideration of the representation of the applicant, if any. However, no notice has been given to the applicant. Hence, we quash the impugned orders and direct the respondents

that they may proceed after giving notice to the applicant. This exercise should be done within 3 months from the date of receipt of a copy of this order.



( S.A.T. RIZVI )  
Member (A)



( KULDIP SINGH )  
Member (J)

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