

CENTRAL ADMINISTRATIVE TRIBUNAL**CHENNAI BENCH****OA No. 310/01429/2016****Dated 19th ,the day of December , 2019****PRESENT****Hon'ble Mr.P.Madhavan , Member (J)****&****Hon'ble Mr.T.Jacob , Member(A)**

Purnendu Biswas (65 years)

S/o. M.N.Biswas

Retired Engineer & Ship Surveyor,

Residing at No. 27/4, Munisamypuram,

2nd Street, Tuticorin – 628 003.

....Applicant

By Advocate M/S M.V.Venkateseshan

Vs

1. Union of India, Rep by

The Director General of Shipping,

Road Transport & Highways and

Ex-Officio Additional Secretary to the Govt. of India,

BETA Building, 9th Floor, Mumbai – 400 042.

2. The Assistant Director General of Shipping,

O/o. Directorate General of Shipping,

BETA Building, 9th Floor, I-Think Techno Campus,

Kanjur Village Road, Mumbai – 400 042.

....Respondents

By Advocate Mr. Kishore Kumar, SPC

ORDER

(Pronounced by Hon'ble Mr.P.Madhavan, Member(J))

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

- "i. To call for the records relating to the impugned orders in F.No. PB-13(3)/2001-VII, dated 27.10.2014 passed by the 2nd respondent and in F.No. VIG-3(3)/2006 dated 03.12.2008 passed by the 1st respondent, quash the same so far as it denies the period from 29.07.1992 to 13.01.2003 is to be treated as period not spent on duty and quash the same and consequently
- ii. Direct the respondents to treat the suspension period of the applicant from 29.07.1992 to 13.01.2003 as a duty period.
- iii. To regularize the periods as duty and to pay salary and allowances for the entire suspension period of the Applicant from 29.07.1992 to 17.10.2003 and from 01.03.2005 to 02.01.2007.
- iv. To grant the due promotions top the applicant for the entire period of his service.
- v. To regularize the annual increments and to grant the consequential revision of pay and to pay arrears of pay accruing thereof.
- vi. To revise retirement benefits like gratuity encashment of surrender of earn leave and commutation of pension, CGEIGS and telephone bills.
- vii. To revise the pension of the applicant with arrears of pension arising thereon and consequential service benefits”.

2. The short question to be resolved in this case is when an employee is suspended on the basis of a criminal charge, whether he is entitled to get the full salary if he is acquitted of the criminal charge.

3. The applicant in this case was charge sheeted for offences under S.13 (1) (d) r/w 13(2) of Prevention of Corruption Act 1988. The respondent had suspended him on the basis of charge on 29.07.1992. The Criminal case CC 7/1995 was tried and the applicant was convicted for the charge and sentenced to undergo imprisonment for 5

years and fine Rs. 5000/-. He filed appeal CA 308/96 before the Hon'ble High Court. The High Court reversed the finding of trial court and acquitted him on 14.01.2003. The CBI filed SLP before the Apex Court as SLP No.5257/2003 and it was taken as Civil Appeal No. 471/2004. The Hon'ble Supreme Court dismissed the appeal conforming the Judgement of High Court on 07.10.2005.

4. On 16.10.2003, the respondents revoked the suspension which was in force for 11 years and he was posted to Cochin Port Trust and thereafter to Chennai Port.

5. The respondents then issued a charge memo on 21.06.2005 with 3 articles of charge. Then applicant filed OA 552/2006 challenging the charge memo issued to him. This Bench quashed the charge memo as the accused is already acquitted of Corruption charges. Since he was also suspended again w.e.f 01.03.2005 he filed another OA 553/2006 and by order dated 29.11.2006 the order of suspension was also set aside and directed the respondents to regularise the suspension period. The applicant was re-instated and he retired on 31.03.2009.

6. The respondent did not regularise the suspension period and has also not given service benefits. Then he filed OA 1263/14 and the Tribunal directed the respondents to consider the representation and pass speaking order.

7. Then, the respondents had passed the impugned order dated 28.10.2014. They passed an order stating that the suspension period from 29.07.1992 to 17.10.2003 is treated as **period not spent on duty**.(Annexure A6).

8. The applicant seeks to quash the impugned order passed by R2 dated

27.10.2014 and 03.12.2008 and treat the period of suspension as period spent on duty and to regularize the period as on duty and pay salary and their benefits.

9. The respondents filed a reply and submits that the applicant was caught red-handed by CBI while accepting a bribe of Rs. 50,000/- from one Shri Rajan of M/s Raja Agencies, Tuticorin for giving Clearance Certificate to vessel M.V Lily. The respondents admitted the filing of OA's stated in the application and also admit that the claim made by the applicant in his representation and it was rejected and passed the order No. VIG-3(3)/2006 dated 03.12.2008 stating that the period of suspension will be treated only as "period not spent on duty" and he is not entitled to backwages. The respondents had treated the period of suspension (2nd suspension) from 01.03.2005 to 02.01.2007 as period spent of duty. The orders passed were communicated to applicant in time.

10. We had heard both sides and perused the pleadings. The counsel for the respondent had invited our attention to the various decisions of the Apex Court holding that "the employee does not automatically become entitled to full pay and allowances for suspension period". He was absent from duty for reasons of his own involvement in misconduct (A/ R 1994 SC552). We have carefully gone through the impugned orders dated 29.10.2014 and 03.12.2008 and we find that the Competent authority had passed a speaking order stating the reasons for passing the said order. We do not find any infirmity or illegality in the said order.

So, we find that there is no merit in the OA and it is liable to be dismissed.

11. Accordingly, we hereby dismiss the OA. No Costs.

(T.Jacob)
Member(A)

-12-2019

(P.Madhavan)
Member(J)

/SV

ANNEXURES IN THE O.A 1429 of 2016

Sl No.	Date	Description of Documents	Annexure-No
1	14.01.2003	Judgement in C.A.No. 308/1996 passed by the Hon'ble High Court, Madras	Annexure-1
2	07.10.2005	Judgement in Crl. Appeal No. 471/2004 passed by the Hon'ble Supreme Court	Annexure-2
3	09.11.2006	Orders in O.A.No. 552 of 2006	Annexure-3
4	29.11.2006	Orders in O.A.No. 553 of 2006	Annexure-4
5	26.08.2014	Order in O.A.No.1263 of 2014	Annexure-5
6	27.10.2014	Impugned order passed by the 1 st Respondent along with the Order Copy dated 03.12.2008	Annexure-6