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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1685/2001

New Delhi this the 7th day of August, 2002.

Hon'ble Dr. A. Vedavalli, Member(J)
Hon'ble Sh. Govindan S. Tampi, Member(A)

Constable Ashok Kumar No.1896/PCR,
R/o Vill & P.O. Choosa,
Distt. Mujjaffar Nagar,
U.P. Applicant

(through Sh. Sachin Chauhan, Advocate)

Versus

1. Union of India through
its Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. Addl. Dy. Commissioner of Police,
Police Control Room,
Sarai Rohilla, Delhi. Respondents

(through Sh. Ajay Gupta, Advocate)

ORDER (ORAL)

Hon'ble Dr. A. Vedavalli, Member(J)

The applicant, Ashok Kumar, a Constable in Delhi Police is aggrieved by the denial of consequential benefits and back wages for the period from 14.08.1995 to 27.09.2000 with 12% interest by the respondents after his reinstatement in service pursuant to the Tribunal's order dated 24.04.2000 in an earlier OA No. 1375/1996 filed by him (Annexure A-3). He has impugned the order dated 27.09.2000 (Annexure A-1) passed by the respondents in this regard.



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2. Facts of this case briefly are as under:-

A departmental enquiry was conducted by the respondents under the Delhi Police Act and Rules against the three defaulters, namely, ASI Ram Nath, HC Rajender Kumar and Constable Ashok Kumar (the present applicant) for the alleged misconduct. The defaulter were dismissed from service by an order of the Disciplinary Authority dated 14.08.1995. The applicant submitted an appeal against the said order to the Appellate Authority which was rejected by an order dated 08.05.1996. Thereafter the applicant filed OA No. 1375/1995 which was allowed by the Tribunal by its order dated 24.04.2000 (Annexure A-3). Pursuant to the said order of the Tribunal the applicant was reinstated in service by the impugned order dated 27.09.2000 (Annexure A-1). The applicant filed a Contempt Petition No. 211/2001 in OA-1375/1996 alleging that the alleged contemnor has wilfully disobeyed the aforesaid order of the Tribunal dated 24.04.2000 since the full back wages have not been granted to him for the intervening period from the date when the applicant was dismissed from service to the date of his reinstatement. The said Contempt Petition was dismissed by the Tribunal by its order dated 03.05.2001 (Annexure A-5) leaving it open to the applicant to pursue any other remedies in law, as advised. Thereafter the applicant filed the present OA before this Tribunal.



3. The reliefs claimed by the applicant in the present OA are as under:-

"(i) To set aside the portion of the impugned order at Annexure A-1 which deprived the applicant his full pay and allowances for the intervening period and direct the respondents to pay to the applicant full pay and allowances for the period 14.8.1995 to 27.9.2000 with 12 % interest.

(ii) Any other relief which this Hon'ble Court deem fit and proper may also be awarded to the applicant."

4. Heard the learned counsel for both the parties. Pleadings and material papers placed on record have been perused.

5. Learned counsel for the applicant Sh. Sachin Chauhan submitted that the denial of back wages to the applicant on his reinstatement is arbitrary and illegal. He contended that one of the co-accused in the common departmental enquiry, namely, Rajender Kumar who is similarly situated was granted back wages on reinstatement while the applicant alone was denied the same on reinstatement and hence the impugned order is clearly discriminatory and arbitrary in nature. He further contended that the impugned order is violative of FR 54-A(3). He also relied upon a judgement of Apex Court in **Ramesh Chander & Ors. Vs. Delhi Administration & Ors.** (1996(2) SC SLJ 383) and prayed that the impugned order may be quashed and set aside

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and the respondents are directed to pay the applicant full pay and allowances for the period 14.08.1995 to 27.09.2000 with 12% interest as sought for in the OA.

6. Learned counsel for respondents Sh. Ajay Gupta in reply submitted that this Tribunal in its order dated 24.04.2000 in OA-1375/1996 (Annexure A-3) allowing the same and directing reinstatement of the applicant Ashok Kumar in service with all consequential benefits has not given any specific direction for payment of back wages whereas the Tribunal has given clear and specific directions in the case of the colleague of the applicant (co-accused) in the common departmental enquiry for payment of back wages. He contended that the impugned order in the present OA is passed in implementation of the Tribunal's order passed in the case of the applicant and hence there is no illegality or arbitrariness involved in the said order and the same is perfectly valid. He submitted that the OA deserves to be dismissed with costs in view of the above.

7. We have given our careful consideration to the matter.

8. The operative portion of the Tribunal's order dated 24.04.2000 in OA-1375/1996 (Annexure A-3)

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allowing the said OA filed by the present applicant Ashok Kumar is as under:

"In view of the above position, we allow this OA and quash the impugned orders cited above. Respondents are directed to reinstate the applicant in service with all consequential benefits. We do not order any costs."

(Emphasis added)

9. The impugned order dated 27.09.2000 (Annexure A-1) purporting to be in pursuance of the said order of the Tribunal is as under:-

"In pursuance of the judgement pronounced by Hon'ble Central Administrative Tribunal, Delhi on 24 April 2000 in O.A.No. 1375/96-Ex. Const. Ashok Kumar Vs. UOI and others and DCP/Vigilance, Delhi's endst. No. 12951-52/P.Cell/Vig./P-V, dated 22.9.2000, this office order No. 7320-7400/HAP (P-II) PCR dated 14.8.1995 vide which Ex. Const. Ashok Kumar No.1896/PCR was dismissed from service and order of appellate authority dated 8.5.1996 regarding rejection of appeal, are hereby quashed and set-aside. Ex. Const. Ashok Kumar No.1896/PCR is hereby re-instated in service with immediate effect with all consequential benefits. The intervening period from the date of his dismissal from service to the date of reinstatement in service is decided as period spent on duty for all intents and purposes except back-wages. As such he is not entitled for any back-wages. Besides, the suspension period from 8.10.94 to 1.11.94 is decided as period spent on duty.

The period from the date of issue of this order to the date of joining his duties in Delhi Police will be treated as Leave of kind due.

Let Const. Ashok Kumar No.1896/PCR be informed accordingly.

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(P. DASS)
ADDL.DY.COMMISSIONER OF POLICE:
POLICE CONTROL ROOM: DELHI.

SIP/OB

No. 11191-11280/HAP(P-1)PCR, dated,
Delhi, the 27-9-2000."

(Emphasis added)

10. The relevant portion of the Tribunal's order dated 09.03.2000 in OA-2020/96 given in the case of a co-accused Rajender Kumar (Annexure A-2) is as under:-

"The OA is allowed. The respondents are directed to reinstate the applicant in service with consequential monetary benefits."

(Emphasis added)

11. On a perusal of the impugned order dated 27.09.2000 (Annexure A-1) it is seen that the applicant was reinstated in service with immediate effect with all consequential benefits and the intervening period from the date of his dismissal from service to the date of reinstatement in service is decided as period spent on duty for all intents and purposes except back wages. It is also stated in the said order, inter alia, that "as such he is not entitled for any back wages." The suspension period from 08.10.1994 to 01.11.994 was also decided as period spent on duty.



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12. There is not a whisper in the said impugned order as to why the applicant was denied back wages on his reinstatement in service. Prima facie, there is no indication in the said impugned order as to whether the case of payment of back wages to the applicant was ever examined and considered by the respondents in the light of the Tribunal's order dated 24.04.2000 in the case of the applicant (supra), the relevant rules and instructions including, inter alia, the provisions of FR 54-A and the judicial pronouncements on the subject etc. even though the Tribunal has not specifically directed the payment of back wages. The basis/grounds/reasons on which the applicant was denied back wages has not been spelt out clearly and specifically in the aforesaid impugned order by the respondents. Even if ^{there is by} no specific direction as such in the Tribunal's order regarding payment of backwages to the applicant, the respondents were under a duty to examine the question of "all consequential benefits" to which the applicant is entitled under the law in the light of the said order of the Tribunal and also the relevant rules, instructions and judicial pronouncements on the subject before coming to the conclusion or decision regarding denial of back wages to the applicant.

13. In the facts and circumstances of this case and in view of the above discussion, we are of the opinion that the impugned order dated 27.09.2000 (Annexure A-1) is vague, sketchy and incomplete and

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also indicates non-application of mind so far as the question of payment of back wages is concerned and hence a fresh order should be passed by the respondents in this regard strictly in accordance with law. Accordingly, the impugned portion of the order dated 27.09.2000 (Annexure A-1) i.e. "back-wages. (As such he is not entitled for any back wages." is quashed and set aside.

14. The respondents are hereby directed to examine the claim of the applicant in the present OA seeking back wages for the period from 14.08.1995 to 27.09.2000 with 12% interest in the light of the earlier order of this Tribunal dated 24.04.2000 in the applicant's case in OA-1375/1996 and also the observations and findings given by us in the present OA, and pass a fresh order in accordance with law. Said order should be a detailed and speaking one regarding the aforesaid claim of the applicant spelling out clearly and specifically the particular rules/instructions and judicial pronouncements etc. on the basis of which the said order is passed. The aforesaid order should be passed by the respondents under intimation to the applicant within two months from the date of receipt of a copy of this order.

15. The OA is disposed of as above. No costs.

(Govindan S. Tampi)
Member (A)

A. Vedavalli
7/8/2002
(Dr. A. Vedavalli)
Member (J)