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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.762/99

New Delhi this the 30th day of October, 2000

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J)
HON'BLE MR. V.K. MAJOTRA, MEMBER(A)

Shri Nek Ram
S/o Shri Chottelal
R/o House No. 3579
Gali No. 4
Shanti Mohalla
Raghuvar Nagar,
Gandhi Nagar, Delhi.

-Applicant

(By Advocate: Dr. M.P. Raju)

Versus

1. Union of India
through its Secretary
Ministry of Human Resource Development
Dept. of Culture
New Delhi.
2. Director General
Archeological Survey of India
Janpath, New Delhi-1
3. Superintendent Archeologist
Archeological Survey of India
Agra Circle, Agra (UP).

-Respondents

(By Advocate: Shri N.S. Mehta)

ORDER(Oral)

Smt. Lakshmi Swaminathan, Member (J)

The applicant is aggrieved by the order of dismissal from service dated 5.5.1993 (Annexure-A-I) passed by the Superintending Archaeologist, respondent 3; and dismissal of his appeal by the order dated 12.8.94 (Annexures A-II). The applicant states that he had also submitted a representation dated 10.12.97 to the Director-General, Archaeological Survey of India, New Delhi, for reconsideration of the appellate order, to which no reply has been given:

2. The impugned order dated 5.5.1993 has been passed under Rule 19(i) of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. In that order, the conviction of the applicant under Sections 147,

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302/149, 323/149 of IPC has been noted, on which he had also been given an opportunity to make his submissions. Thereafter the penalty of dismissal from service has been imposed on the applicant. The appeal filed by the applicant against this order has also been duly considered by the Appellate Authority in which it has been noted that the Court has not exonerated him fully and "[M]ere grant of bail and suspension of the sentence pending final disposal of the case do not mean full exoneration. Hence the conviction stands intact". In his representation dated 10.12.1997 the applicant has prayed for re-consideration of the appellate order and has also stated that as he has rendered 23 years of service and the Hon'ble Allahabad High Court has suspended the sentence passed by the Additional Session Judge, Agra, he may be reinstated in service in the lowest post with the respondents.

3. Taking into account the facts and circumstances of the case, the stand taken by the respondents that unless the applicant is fully exonerated from the criminal charges, no relief by way of reinstatement can be granted, cannot be faulted. The judgment of the Hon'ble Supreme Court in S.Vasundara Vs. Canara Bank and Others {(1997) 9 SCC 523}, in which it has been held that the suspension of sentence and grant of bail by ^{the} High Court pending appeal does not obliterate the conviction, is fully applicable to the facts of the present case.

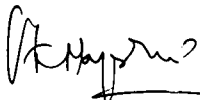
4. The main contention of Dr.M.P.Raju, learned counsel for the applicant is that the order of the Allahabad High Court dated 2.2.93 (Annexure-VI) may be interpreted as the ~~setting aside~~ ^{setting aside} of the conviction, with which we are unable to agree. The High Court has stayed the execution of the sentence passed by the Additional Session Judge, Agra on 4.9.92 in

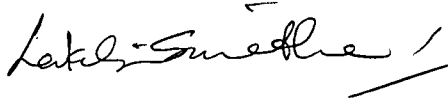
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the criminal case during the pendency of the appeal. Therefore, following the judgment of the Supreme Court in S.Vasundara(supra), the suspension of sentence by the High Court pending appeal will not have the effect of obliterating the conviction by the Court against the applicant. In this view of the matter, the penalty orders passed by the respondents dated 5.5.93 and 12.8.94 are legal and valid and does not justify any interference in the matter.

5. In the facts and circumstances of the case, there does not appear to be any justification to ask the respondents to re-consider the applicant's appeal/representation dated 12.10.97 at this stage.

6. In the result, for the reasons given above, we find no merit in the application. The OA is accordingly dismissed. No order as to costs.


(V.K. MAJOTRA)
MEMBER (A)


(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)

cc.