

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1268 of 1998

New Delhi, this the 12th day of May, 1999

HON'BLE SHRI N.SAHU, MEMBER(A)

Pardeep Singh Negi,
S/o Sh.Jai Pal Singh Negi,
R/o 61, Lodhi Road Complex,
New Delhi-3

(M)
-APPLICANT

(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India through
the Secretary,
Ministry of Industry,
Udyog Bhawan, New Delhi
2. The Chief Controller of Accounts
Ministry of Industry, Room No. 517-D,
Udyog Bhawan, New Delhi-1.

(M)
-RESPONDENTS

(By Advocate: Shri R.V.Sinha, through proxy counsel Shri
R.N.Singh)

O R D E R (ORAL)

By Hon'ble Shri N.Sahu, Member(A)

Heard Shri Yogesh Sharma, learned counsel for
the applicant and Shri R.N.Singh, learned proxy counsel
for the respondents.

2. The prayer in this OA is for a direction to
the respondents to consider the applicant for his
appointment to any Group 'D' post and to reconsider him
for re-engagement.

3. The brief background facts are that the
applicant was engaged on daily wages during May, 1990. He
worked upto 31.8.1993. He was disengaged because of want
of work. He was thereafter detained on 2.11.1993 by the
Police and was under trial for 37 months from 2.11.1993
to 18.12.1996. Eventually by an order of the Additional

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Sessions Judge, Delhi dated 18.12.1996 the applicant was acquitted on benefit of doubt and the Court directed that he be released from judicial custody. He prayed to respondent no.2 for taking him back to the same job by a representation dated 8.7.1997. There was no response to this representation and hence this OA.

4. An important fact to be highlighted is that a little while before his incarceration the Ministry of Industry sent to him an offer which reads as under -

"There is a proposal under consideration for filling up post of Peon in an office at Calcutta. The appointment is temporary but likely to be made permanent. In case you are interested to join at Calcutta, if found otherwise suitable, you may submit an application to this office inter-alia giving the personal particular such as Date of birth, Educational Qualification, Caste/Religion etc. with copies of the supporting certificates for our consideration. This communication may not be treated as a firm order of appointment.

You may furnish his reply so as to reach this office by 30th December 1993 positively. In case no reply is received by that date it will be treated that you are not interested and this office may take suitable action accordingly. No more communication will be issued in case no reply is received by above date."

5. The respondents resist this OA on the ground that the applicant did not respond to the original proposal positively and he even did not reply to the same leading to the inference that he was not interested in the job. They state that persons who were offered on similar lines accepted the job and eventually were absorbed on their fulfilling the eligibility conditions.

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6. The learned counsel for the respondents Shri R.N. Singh strenuously argued that the applicant had not even applied for extension of time and the offer could not have been kept open indefinitely. He did not even respond soon after he was discharged from jail.

6. There are other preliminary objections of limitation which do not merit any detailed discussion. It is also stated that as the applicant remained in judicial custody and released only on benefit of doubt, his fitness for re-employment cannot remain uninfluenced by these considerations.

7. The learned counsel for the applicant on the other hand stated that the law on the subject is very clear. When a person is acquitted either on merits or on benefit of doubt, it is acquittal all the same and merely because he was acquitted on benefit of doubt, would not curtail his right to seek re-employment and would not in any way curtail his fundamental right to be considered for employment. The learned counsel has placed for consideration the following decisions -

(i) A. Parthan vs. The Divisional Engineer (P&A), Office of IDM, Palakkad - 1994 (8) SLR 492.
That was also a case of an employee charged with a criminal offence and was prevented from working during the pendency of trial. On his acquittal in criminal case it was held that he was entitled for regularisation in service with all consequential benefits. The Tribunal on the basis of the decision of the Supreme Court in the

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case of B.R.Patel Vs. State of Maharashtra - 1968 (2) SLR 593 held that the applicant is entitled to regularisation as well as service benefits.

(ii) Mohan Lal Vs. Union of India and others.

1982 (1) SLR 573. Considering the scope of FR 53 the Delhi High Court held that even when a Government servant is acquitted on benefit of doubt it has the same effect as of acquittal on merits.

(iii) M.K.Balappachar Vs. The State of Mysore & ors. 1975 (1) SLR 809. In that case the High Court of Karnataka has given a similar ruling.

(iv) Satyender Singh Maan Vs. Commissioner of Police and anr. 161 Swamy's CL Digest 1993 decided by this Bench. In that case interpreting Rule 6 of Delhi Police (Appointment & Recruitment) Rules, 1980 this Tribunal held that involvement in a criminal case ending in acquittal, cannot debar one from entry into public service. For this purpose the Bench relied on the decision of Hon'ble Supreme Court in the case of State of M.P. Vs. Rama Shankar Raghuvanshi. AIR 1983 SC 374. It also relied on the case of I.S.Yasudeyan Nair Vs. Director of Vikram Sarabhai Space Centre. 1988 (Supp) SCC 795 wherein the Supreme Court considered the question whether the services of an employee could be terminated on the sole ground that he did not disclose that during emergency he had been convicted under the Defence of India Rules for having shouted slogans on one occasion. The Supreme Court setting aside the judgment of the

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Kerala High Court cancelling the offer of appointment to the applicant, directed the respondents to issue the offer of appointment to him.

3. Vasudevan Nair's decision given by the Supreme Court is a complete answer to the objection of the respondents. I would respectfully follow the said Supreme Court decision and hold that (i) even though the acquittal is on benefit of doubt, it is all the same a complete acquittal. (ii) Failure or inability on the part of the applicant in not answering to the proposal given in 1993 because of his facing criminal trial should not disentitle him for fresh consideration for further appointment. (iii) Once the person is acquitted the entire stigma gets totally wiped out and he is as much a free citizen as anybody else for this purpose. (iv) The respondents are therefore directed to consider the applicant's case for a fresh appointment on the lines on which they have sent the proposal earlier provided (a) there is a post vacant (b) he fulfills the eligibility criteria. Irrespective of the outcome of this, they are hereby directed within a period of four weeks from the date of receipt of a copy of this order to take the applicant back as a daily wage casual employee provided there is work available for him. The earlier service rendered by him shall be counted for all benefits like temporary status and shall eventually be considered for his regularisation in the event a post is available. The OA is allowed. No costs.

Naraincharan
(N. SAHU)
MEMBER(A)

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