

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2427/1998

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New Delhi, this 4th day of February, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)

Hon'ble Smt. Shanta Shastry, Member(A)

Ex.Constable Jagdish Chand

Vill. & PO Jasssaur Khiri

Dt. Rohtak, (Haryana)

.. Applicant

(Mrs. Sumedha Sharma, Advocate)

versus

Union of India, through

1. Secretary

Ministry of Home Affairs

North Block, New Delhi

2. Commissioner of Police

PHO, MSO Building

ITO, IP Estate, New Delhi

3. Dy. Commissioner of Police

Central Dt.

ITO, IP Estate, New Delhi

.. Respondents

(Shri Ajesh Luthra, Advocate)

ORDER(oral)

By Reddy, J. -

The applicant, a Constable in Delhi Police, was dismissed from service under Article 311(2) of the Constitution on the ground that he was involved in a criminal case.

2. He was alleged to have committed an offence of kidnapping under section 365 IPC. He was arrested and also suspended from service from 12.6.92 till the date of his dismissal. The applicant questioned the order of dismissal in OA 2483/93 before this Tribunal but it has been dismissed. Against the order of dismissal the applicant approached the Supreme Court by way of an SLP which was also dismissed by order dated 23.8.96.



3. The applicant was, however, acquitted by the criminal court by the learned Metropolitan Magistrate of Delhi by judgement dated 1.8.97 of the said offence. Applicant has filed the present OA challenging the order of dismissal on the ground that as he has been acquitted by the Criminal court of the charge for which he was tried by the court, the order of dismissal has to be set aside and he is entitled for reinstatement in service.

4. Learned counsel for the respondents refutes the contention stating that as the applicant was not honourably acquitted he is not entitled for reinstatement.

5. We have heard the learned counsel for the parties. The order of dismissal of the applicant under Article 311(2) of the Constitution was based on the ground that he was involved in the criminal case for the offence of kidnapping. Even before the applicant was tried and convicted, he was dismissed. The applicant has been acquitted by the criminal court of the charge. The ~~subtraction on~~ <sup>ground</sup> which the order of dismissal was ~~passed~~ now disappeared after his acquittal. The order of dismissal cannot therefore stand. We are of the view that the applicant is entitled for reinstatement in service. This view of ours gets support from the decision of the Principal Bench of the Tribunal in OA 125/96

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decided on 17.7.96. In the circumstances, this OA is allowed and the impugned order of dismissal is set aside. Respondents are directed to reinstate the applicant in service treating the entire period of suspension as the period spent on duty. This should be done within a period of 3 months from the date of receipt of a copy of this order. It is however open to the respondents to proceed against the applicant strictly in accordance with Rule 12 of the Delhi Police (Punishment & Appeal) Rules.

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

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(Smt. Shanta Shastri)  
Member(A)

*V. Rajagopala Reddy*  
(V. Rajagopala Reddy)  
Vice-Chairman(J)

/gtv/