

Central Administrative Tribunal  
Principal Bench, New Delhi

New Delhi this the 27th day of July 1995.

OA No.934/95

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)  
Hon'ble Mr R.K.Ahooja, Member (A)

Parshotam Lal  
R/o D-201, Ambedkar Nagar  
Sector 2  
New Delhi - 110 062.

...Applicant.

(By Advocate: Mr Shyam Moorjani)

Versus

1. Union of India through Secretary  
Ministry of Works & Housing  
Nirman Bhavan  
New Delhi.

2. Director General  
Central Public Works Department  
Nirman Bhavan  
New Delhi.

3. Superintending Engineer  
Electrical Circle No.7  
CPWD, East Block  
R.K.Puram, New Delhi.

4. Executive Engineer  
Electrical Division No.IX  
CPWD, East Block  
R.K.Puram, New Delhi.

5. Jagmohan Lal  
Superintending Engineer  
Delhi Central Circle II  
CPWD, New Delhi. ...Respondents.

(By Advocate: Mr M.K.Gupta)

O R D E R (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The applicant in this case is aggrieved by the discriminatory treatment meted out to him in comparison with his colleague who was on acquittal by the High Court reinstated in service with all consequential benefits including pay and allowances while the applicant who was also acquitted by the same judgement in the same case has been denied the benefits. To state the facts in a nutshell, the applicant and one Mr Ram Chander who were working as Khalasi and Plumber respectively under C.P.W.D. were convicted by the Sessions Judge for an offence of murder and were sentenced to undergo life imprisonment and a fine of Rs. 1000/- each

alongwith another person. The applicant was released on bail while the others were undergoing the imprisonment. However, in appeal, the High Court acquitted all the accused including the applicant and Ram Chander finding that prosecution did not establish their guilt vide judgement dated 13.5.88 (Annexure A-9). While the appeal was pending before the High Court, after giving a notice to the applicant and Ram Chander to show ~~as~~ <sup>cause</sup> be to why they ~~should not~~ / dismissed from service on account of their conduct leading to their conviction and sentence, the respondents dismissed both of them from service. After acquittal by the High Court, Ram Chander made a representation for his reinstatement with all consequential benefits. By order dated 20.1.89 (Annexure A-15) Ram Chander was reinstated in service w.e.f. 22.7.88 and by order dated 31.1.89 Ram Chander was posted as Plumber and was allowed to draw pay and allowances in the scale of Rs. 950-1500 w.e.f. 22.7.88. By another order dated 27.10.89 (Annexure A-18) Ram Chander was given all pay and allowances during the entire period during which he was kept out of service subject to adjustment of payment made and recoveries during the suspension. He was given increments etc. by order dated 21.12.89. He was, by order dated 30.5.91, paid leave encashment etc. While so, the applicant's representation for reinstatement and treatment of the period of dismissal as duty for all purposes and for the consequential benefits was turned down. Repeated representations made by the applicant to officials at various levels did not evoke any favourable response. Under these circumstances, the applicant has filed this application seeking to quash the order dismissing him from service dated 21.8.87 (Annexure A-2) and for a direction to the respondents to reinstate the applicant with all back wages, promotions and consequential benefits with interest @ 24% per annum.

2. The respondents in their reply do not dispute the fact that the applicant and Ram Chander were convicted by one ~~of~~ <sup>and</sup> the same judgement and that both of them were acquitted by one of the same judgement of the High Court. They have no case ~~in~~ <sup>in the</sup> finding that there has been any difference ~~of~~ <sup>in the</sup> court as regards the applicant and Ram Chander. While Ram Chander who was similarly

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implicated in the murder case and was convicted by the trial judge and was acquitted for want of proof by the High Court was given all the benefits, the applicant has been denied the benefit and the sole reason stated in the reply statement is that the acquittal was on technical grounds, and that as Ram Chander was working in a different division, the respondents could not say under what circumstances he was given the benefits. The respondents contend that the applicant is not entitled to the reliefs which he has prayed for in the application.

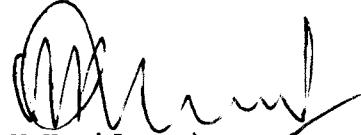
3. We have perused the pleadings in the case and the materials on record and have heard learned counsels for the parties. We are convinced that the allegation made in the application that the applicant has been discriminated in a hostile manner is absolutely true. We have perused the judgement by which the applicant and Ram Chander and another co-accused were acquitted by the High Court. A careful reading of the judgement did not show that there has been any difference in the finding regarding Ram Chander and the applicant. The contention of the respondents that the acquittal was on technical grounds is absolutely untenable because the acquittal was on merits as the prosecution had failed to establish the guilt of the accused. Be that as it may, there cannot be any justification for the respondents in treating the two employees of the same department in two different ways while the entire facts and circumstances under which they stood trial were identical. We regret to note that the respondents have taken an irresponsible attitude in the reply statement. It is not the Divisional Head under whom the applicant was employed that alone has been impleaded in the application. Right from UOI through the Secretary, Ministry of Urban Development, all necessary parties have been impleaded. It is unbecoming of the Secretary, Urban Development and the Director General, CPWD to say that they cannot say why Ram Chander who was working in another division was reinstated because all the divisions in the CPWD are under the direct control of the Director General of CPWD and the Ministry of Urban Development.

4. In the conspectus of the facts and circumstances, we are left with no doubt that this is a case of hostile discrimination and callousness to say in the most modest terms. We are, therefore, of the considered view that the applicant is entitled to succeed and be treated on par with Ram Chander for the purpose of reinstatement and grant of all consequential benefits which were given to Ram Chander.

5. In the result, in the light of what is stated above, we direct the respondents to pass orders within a period of 2 months from the date of receipt of a copy of this order, reinstating the applicant in service and cancelling the order of dismissal from service and to grant him all the benefits which were given to Ram Chander who was a co-accused along with another accused in the murder case. The payment of arrears of pay and allowances should be made within two months from the date of reinstatement.

No order as to costs.

R.K.Ahooja  
(R.K.Ahooja)  
Member (A)

  
(A.V. Haridasan)  
Vice Chairman (J)

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