

9

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2019/2000

New Delhi this the 9th day of May, 2001

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri Govindan S.Tampi, Member (A)

Shri Manohar Lal,
S/O Late Shri Bhagwan Singh
R/O J-80, Jahangirpuri,
Delhi-110033.

..Applicant

(By Advocate Shri B.L.Babbar)

VERSUS

1. Director of Education,
N.C.T. of Delhi, Old Secretariate,
Delhi.

2. Deputy Director of Education,
(North District), Hakikat Nagar,
Kingsway Camp, Delhi.

3. Principal,
G.B.S.S. School, Rana Pratap Bagh,
Delhi-7

4. Principal,
G.B.S.S. School,
Jahangirpuri, A-Block,
Delhi-33

..Respondents

(By Advocate Shri Rajan Sharma, learned
counsel through proxy counsel Shri
Ashwani Bhardwaj)

O R D E R (ORAL)

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman(J)

In this application the applicant has impugned
the order passed by the respondents dated 29.5.2000.

2. The facts in this case are not disputed.
The aforesaid impugned order has been passed by the
respondents after the applicant has been acquitted
from the criminal charges by the Hon'ble Additional
Sessions Judge, Delhi, in case No.68/1994 by order
dated 20.11.1995. The main contention of Shri
B.L.Babbar, learned counsel is that the respondents

js

10

ought to pay the applicant full pay and allowances during the period of his suspension in accordance with the provisions of FR 54-B. This has, however, been disputed by Shri Ashwani Bhardwaj, learned proxy counsel for the respondents. He has submitted that according to the respondents the applicant has not been acquitted on merits but has been acquitted in the criminal case on technical grounds. He has submitted that the respondents have issued show cause notice as required under FR 54 and thereafter pass the impugned order dated 29.5.2000.

3. Taking into consideration the provisions of FR 54, we find merit in the submissions made by Shri Babbar, learned counsel for the applicant that the impugned order dated 29.5.2000 does not disclose the reasons for the opinion formed by the competent authority while passing this order. Under FR 54(2), it is provided, as under:-

"FR 54(1) x x x x

(2) where the authority competent to order reinstatement is of the opinion that the Government servant who had been dismissed, removed or suspended has been fully exonerated he shall be paid full pay and allowances subject to the provisions of sub-rule (6)..."

4. Learned counsel for the applicant, however, relies on FR 54(B). Under this Rule also the competent authority who has reinstated the Government servant has to form the opinion that the suspension was wholly unjustified in order to pay him full pay and allowances during the period of suspension. It is also relevant to note that in this case, the respondents have themselves issued show cause notice to the applicant by their notice dated 14.12.1998 to which he had also filed his reply on 12.2.1999. One

js




of the main contentions of the learned counsel for the applicant is that the respondents have failed to consider the averments taken by him in this reply while dismissing his claim for full pay and allowances for the period of suspension but restricted it to 75 % rate of his pay ~~and~~ and allowances for the said period.


5. On reading the impugned order dated 29.5.2000, we do not find that any reasons have been given by the respondents informing their opinion with regard to payment or not of the applicant's full pay and allowances for the suspension period. This should have been done by the respondents in accordance with the principles of natural justice and the provisions of Fundamental Rules. As the respondents have failed to do so, this OA is disposed of with the following directions:-

(i) The impugned order dated 29.5.2000 is quashed and set aside;

(ii) Respondent 2 i.e. the Deputy Director of Education (North West), Hakikat Nagar, Kingsway Camp, Delhi, is directed to consider the applicant's reply dated 12.2.1999 and pass a detailed, reasoned and speaking order on each of the points raised by him, in accordance with the relevant Fundamental Rules and instructions. This shall be done within two months from the date of receipt of a copy of this order.

No order as to costs.


(Govindan S. Tampi)
Member A)


(Smt. Lakshmi Swaminathan)
Vice Chairman(J)