

(4)

Central Administrative Tribunal  
Principal Bench, New Delhi.

OA-242/89

New Delhi this the

10th May, 94.

Hon'ble Mr. N.V. Krishnan, Vice-Chairman(A)  
Hon'ble Mr. B.S. Hegde, Member(J)

Shri Prem Nath,  
S/o Sh. Dalu Ram,  
R/o B-29, Ram Datt Enclave,  
East Uttam Nagar,  
New Delhi-59.

Applicant

(By advocate Sh. A.S. Grewal)

versus

1. Lt. Governor of Delhi,  
through its Chief Secretary,  
Delhi Administration, Delhi.
  2. Commissioner of Police Delhi,  
Delhi Police Headquarters,  
M.S.O. Building, I.P. Estate,  
New Delhi.
  3. Addl. Commissioner of Police(Range),  
Delhi Police Headquarters,  
M.S.O. Building, I.P. Estate,  
New Delhi.
  4. Deputy Commissioner of Police,  
Central District, Near P.S. Darya Ganj,  
Delhi Gate, Delhi.
- Respondents

(By advocate Mrs. Avnish Ahlawat)

ORDER

delivered by Hon'ble Mr. N.V. Krishnan, Vice-Chairman(A)

We have heard the counsel for the parties.  
It is not necessary to go into the protracted history  
of this case. It was agreed by the counsel of the  
parties, that the only question is whether the Annex.C  
Order dated 18.12.1986 passed by the Deputy Commissioner  
of Police, Central District, Delhi (Respondent No.4)  
under F.R.54A treating the period of suspension from

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17.4.1961 to 13.3.1962 as a period not spent on duty and restricting the salary to the subsistence allowance drawn already is valid and legal. This order has been upheld by the appellate & revisional authority.

2. The learned counsel for the applicant has produced for our perusal a copy of the judgement dated 14.3.1962 in corruption case No.1561 against the applicant by which he was acquitted. It is claimed that the applicant has been acquitted on merits. He further relied on the judgement of the Full Bench of the Tribunal in S. Samson Martin Vs. Union of India, 1990(1) A.T.J.(8) 423 where it was held with reference to the powers under the Indian Railway (Establishment Manual) corresponding to FR-54B, that the disciplinary authority has no right to examine the circumstances of acquittal to determine whether full pay and allowances should be paid. It was held that, whatever be the circumstances of acquittal, full pay and allowances have to be paid without analysing the judgement further.

3. The learned counsel for the respondents submitted that as the applicant was acquitted by giving him the benefit of doubt, the suspension was justified and the impugned orders cannot be questioned.

4. We have considered the rival contentions.

No doubt, para 16 of the judgement of the learned

*Special:*

~~Sub~~-Judge would indicate that the acquittal was by

giving the benefit of doubt to the accused i.e. the


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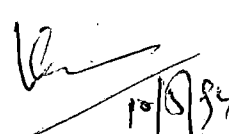
applicant. However, a perusal of para 14 of the judgement clearly shows that the learned <sup>a Special</sup> ~~Sub~~-Judge has earlier held unambiguously that while the applicant received money from the complainant, it was done innocently. It was stated that the accused had succeeded in establishing that he received the amount innocently under the directions of the S.H.O. for payment to Roshan Lal, PW2. It was also held that there was not an iota of evidence to corroborate the statement of the complainant regarding the alleged motive of the crime. The para concludes by declaring that the defence version has been proved beyond any reasonable doubt.

5. With these findings, it is difficult to hold, merely on the basis of para 16 of the judgement, that the applicant was acquitted by giving him the benefit of doubt. We are satisfied that the acquittal was on merits and hence full pay has to be paid.

6. The same result follows applying the judgement in Samson Martin's case (supra).

7. We, therefore, allow this application in part and quash all the impugned orders at Annexures C, D and E and direct the 4th respondent to treat the period of suspension from 17.4.1961 to 13.3.1962 as a period spent on duty for all purposes and give him the full salary and allowances after adjustment of amount already paid within a period of two months from the date of receipt of this order. No costs.

  
(B. S. HEGDE)  
MEMBER (J)  
Camp: New Delhi  
SLP

  
(N.V. Krishnan)  
Vice-Chairman (A)