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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 2786/91

New Delhi, this 21st day of July, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri S.P. Biswas, Member(A)

Shri Amrik Chand
s/o Shri Ram Sarup
C-21(B), New Multan Nagar, Delhi-56 .. Applicant
(By Advocate Shri Sant Lal)

versus

Union of India, through
1. Secretary
Ministry of Agriculture and Railway
Krishi Bhavan, New Delhi
2. General Manager
Delhi Milk Scheme, New Delhi
3. Dy. General Manager(Admn.)
Delhi Milk Scheme, New Delhi .. Respondents
(By Advocate Shri N.S. Mehta)

ORDER(oral)

Hon'ble Dr. Jose P. Verghese

This is an OA pending since 1991 filed against the dismissal order passed by the respondents in disciplinary proceedings initiated against the applicant, who was admittedly acquitted by the Criminal Court. No ground has been shown under what circumstances departmental proceedings were initiated after the acquittal by the Criminal Court.

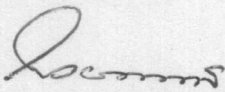
2. While acquitting the applicant of the charge of misconduct of mis-appropriation, the Criminal Court stated that the payment of Rs.10,000/- out of the total amount of Rs.3 lakhs which the applicant was to disburse to the booths in Agra Zone, was a bonafide mistake and no evidence was forthcoming whether this amount has been subsequently acquired for misappropriation or personal use by the applicant.


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3. In any event, under the general power the respondents seem to have initiated an enquiry against the applicant. We have perused the case and the order passed by the disciplinary authority giving him punishment of dismissal. The enquiry proceedings show that there was no evidence based on which the disciplinary authority accepted the findings of the enquiry officer and proceeded to punish the applicant. The dismissal order is neither supported by any statement of witnesses nor any documents. It was only a conclusion arrived at by Enquiry Officer from the facts of the case that the shortage of Rs.10,000/- must have been misappropriated by the applicant. In the circumstances, the order of the disciplinary authority dated 30.8.90 is quashed with the observation that the applicant is entitled for reinstatement in service. The applicant will get 50% of arrears since he has not actually worked during the pendency of this OA, though not for his fault.

4. Except this direction on the arrears of payment, the applicant is entitled to all other reliefs which are normally applicable to him. It is also directed that the respondents are at liberty to reconsider the issue and in case if any evidence is available to prove misconduct of misappropriation and proceed against him within three months after his reinstatement and pass appropriate orders against the applicant, short of removing him from service.

5. With this direction, this OA is disposed of. No order as to costs.


(S.P. Bhowas).
Member(A)


(Dr. Jose P. Verghese)
Vice-Chairman(J)

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