

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA. 1270/93

Date of Decision: 02.09.1993

Shri Chintamani Sharma Applicant

Versus

Delhi Administration Respondents

Shri D.R. Gupta Counsel for the applicant

Shri Virendra Mehta Counsel for the respondents

SINGLE BENCH JUDGEMENT (Oral)

(delivered by Hon. Member (J) Shri C.J. ROY)

Heard the learned counsel for both parties.

Both the parties agree for disposal of this OA at the admission stage itself. Hence I proceed to do so.

2. This applicant in this OA has filed this application aggrieved by the inaction of the respondents to make a specific order in terms of F.R.54(1) regarding the pay and allowances to be paid to the Government servant for the period of his absence from duty including the period of suspension preceding his dismissal and whether or not the said period shall be treated as a period spent on duty. He has sought for a direction to the respondents to pay him pay and allowances to which he would have been entitled, had he not been dismissed from service following his conviction by the Additional Sessions Judge which has been set aside by the High Court of Punjab and Haryana and subsequent dismissal of the SLP by the Supreme Court.

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3. The brief facts of the case are that applicant was employed as W/C Mate in the Office of the respondent No.2 was implicated in a criminal case on 2.9.85. This case has bearing only with non-official functions. The applicant being one of the co-accused was tried, convicted and sentenced by the Additional Sessions Judge, Sonipat vide order dated 17.11.87 and 23.11.87. Following the conviction, he was dismissed from service by respondents No.2 (Annexure A-2). The applicant preferred an appeal against the order of the Trial Court before the High Court of Punjab and Haryana, Chandigarh which was subsequently set aside. He was also acquitted of the charges framed against him. The applicant requested the respondents after succeeding in the criminal case for reinstatement in service vide representations dated 29.11.89 in Hindi and 22.2.90 in English.

4. It is also alleged that against the acquittal order of the Punjab and Haryana High Court, Chandigarh, an SLP was filed vide 4546-47 with Crl. M.P.No.4352-53/91 dated 20.11.89, The State of Haryana Versus Satish Kumar and Another the Hon. Supreme Court, which was dismissed. The said order is at Annexure A-4. In this judgement, the Hon. Supreme Court has also condoned the delay.

5. Subsequent to that, the department has considered his case vide letter dated 15.11.81 and 20.11.91 (Annexure A-5) and recommended for reinstatement in service wef. 19.11.91(FN) and was posted in Sub-Division-I.

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6. The contention of the learned counsel for applicant is that from the date of his suspension on 3.9.85 till he was reinstated in service, he was not paid any emoluments. He claims full emoluments for the said period in view of the fact that he was already acquitted and that the delay is on the department which has not exercised its power as provided under FR 54-B which reads as follows:-

"(1) When a Government servant who has been suspended is reinstated or would have been so reinstated but for his retirement (including premature retirement) while under suspension, the authority competent to order reinstatement shall consider and make a specific order-

(a) regarding the pay and allowances to be paid to the Government servant for the period of suspension ending with reinstatement or the date of his retirement including premature retirement as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty."

7. The respondents filed a counter and the counsel for the respondents present in the court do not dispute the facts of the case. In the circumstances, it is not necessary for me to go into all the details of the counter, judgements or documents as referred to there in, by the counsel for both parties. It is the statutory duty of the respondents to decide as to the treatment of the period and payment of arrears during the period on which he was under suspension and dismissal and subsequent reinstatement. For this purpose, representations have already been made by the applicant in Hindi on 29.11.91, 15.2.92 and 8.2.93, to which the respondents have not chosen to give any reply. The learned counsel for the respondents states

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that they will dispose of this case on a direction of this Hon'ble Tribunal and fix the emoluments in accordance with the rules for the impugned period.

8. Therefore, I direct the respondents to dispose of the representations of the applicant already made, by a Speaking Order in accordance with the rules considering all aspects of treatment of his service for payment of emoluments within a period of two months from the date of communication of this judgement.

9. The applicant is given liberty to approach this Tribunal, if he is aggrieved with the order of the respondents if the cause of action survives.

10. The application is disposed of accordingly with no order as to costs.

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(C.J. ROY)
MEMBER (J)
02.09.1993