

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A./XXXX NO. 2511 /19 <sup>93</sup> Decided on: 15.7.1999

Jaswant Singh thr. LRs ... Applicant(s)

( By Shri G.D.Gupta Advocate )

versus

Union of India & Ors. ... Respondent(s)

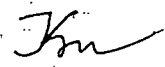
( By Shri N.S.Mehta Advocate )

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THE HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

THE HON'BLE SHRI N. SAHU, MEMBER (A)

- ✓ 1. To be referred to the Reporter or not ? **yes**
2. Whether to be circulated to other Benches of the Tribunal ?

  
( K. M. Agarwal )  
Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO. 2511/1993

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New Delhi this the 15th day of July, 1999.

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI N. SAHU, MEMBER (A)

Jaswant Singh (Deceased)  
through LRs :

1. Smt. Jasbir Kaur
2. Kuldeep Singh
3. Manjeet Singh
4. Sukhinder Singh
5. Inderjeet Kaur
6. Kulvinder Singh
7. Bulwinder Singh
8. Amarjeet Kaur

All R/O A-179, Kidwai Nagar (East),  
New Delhi-110028. ... Applicant

( By Shri G. D. Gupta, Advocate )

-Versus-

1. Union of India through  
Secretary, Ministry of Civil  
Aviation & Tourism,  
Sardar Patel Bhawan,  
Parliament Street,  
New Delhi-110001.
2. Director General,  
Civil Aviation,  
Technical Centre,  
Opp. Safdarjung Hospital,  
New Delhi-110003.
3. The Director of Air,  
Government of India,  
Civil Aviation Department,  
Delhi Region,  
Safdarjung Airport,  
New Delhi-110003.

... Respondents

( By Shri N. S. Mehta, Advocate )

O R D E R (ORAL)

Shri Justice K. M. Agarwal -

The applicant died during the pendency of this

O.A. His legal representatives were brought on record

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thereafter. This O.A. was filed by the deceased applicant for quashing the orders dated 8.10.1992 and 21.1.1993 holding that the suspension of the deceased was fully justified and, therefore, he was not entitled for full pay and allowances for the period between 31.5.1985 till his reinstatement, i.e., 27.7.1992.

2. The deceased applicant was in the employment of the National Airports Authority and posted at New Delhi. On 24.6.1985 he was put under suspension on the ground that he was arrested and detained in custody on 31.5.1985 for more than 48 hours in connection with certain criminal offences alleged against him. Ultimately, chargesheet was filed in the criminal court and the deceased was tried for offences under Sections 120-B/420 read with 120-B IPC and under Sections 25/26 of Emigration Act. After trial, he was acquitted of the charges against him by judgement dated 27.6.1992 by the Metropolitan Magistrate, New Delhi in criminal case No. 257/3 of 1988 based on FIR No. 622/83 of P.S. Defence Colony, New Delhi. A copy of the judgment is on record as Annexure A-2. After his acquittal, he was reinstated in service by the respondents but by the impugned order he was denied his full pay and allowances for the period of suspension by treating it to be not on duty, which order is the subject matter in this O.A.

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3. It was first argued by the learned counsel for L.Rs of the deceased that before passing the impugned order the respondents did not comply with the provisions of rub-rule (5) of FR 54-B which reads as follows :

"(5) In cases other than those falling under sub-rules (2) and (3) the Government servant shall, subject to the provisions of sub-rules (8) and (9) be paid such amount (not being the whole) of the pay and allowances to which he would have been entitled had he not been suspended, as the competent authority may determine, after giving notice to the Government servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period (which in no case shall exceed sixty days from the date on which the notice has been served) as may be specified in the notice."

3. This O.A. is resisted by the respondents by filing a counter.

4. The deceased did not die before conclusion of the criminal proceedings and, therefore, sub-rule (2) of FR 54-B is not applicable. He had not been denied his pay and allowances for the period of suspension on the ground that the proceedings instituted against him were terminated due to reasons directly attributable to him and, therefore, sub-rule (3) of FR 54-B is also not applicable in the present case. Denial of his pay and allowance was on the ground that his acquittal was not on merits but on technical grounds.

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5. On the authority of UNION OF INDIA V. BAIJ NATH, 1972 SLR 382 (Delhi), it was next argued by the learned counsel for the L.Rs of the deceased applicant that if an opportunity of hearing was not afforded to the employee within a reasonable time, such employee would be entitled to full pay and allowances for the period of suspension.

6. The order of acquittal was passed on 27.6.1992 whereas the impugned order denying pay and allowances to the deceased applicant was passed on 8.10.1992 without giving an opportunity of hearing as contemplated under FR 54-B (5). It appears that the respondents were not cautious at the time of passing the order that they were under an obligation to give an opportunity of hearing to the employee before denying him his pay and allowances for the period of suspension. The aforementioned decision of the Delhi High Court is quite distinguishable in that the impugned order therein was not passed within a reasonable time after reinstatement. However, the fact remains that as soon as delinquent official dies, pending disciplinary proceedings abate. It, therefore, appears impossible now for the respondents to comply with the provisions of FR 54-B (5) if the case is remanded with a direction to pass fresh order after complying with the provisions of FR 54-B (5). Under the circumstances, the impugned order deserves to be quashed and the respondents further deserve to be commanded to pay the full pay and allowances of the deceased for the period of suspension.

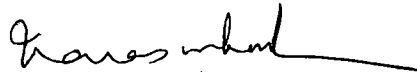
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7. In the result, this O.A. succeeds and it is hereby allowed. The impugned order Annexure A-3 dated 8.10.1992 is hereby quashed and the respondents are directed to pay the legal representatives of the deceased applicant his full pay and allowances for the period of suspension, within a period of four months, as far as possible, after deducting the subsistence allowance etc. that might have been paid to him. No costs.



( K. M. Agarwal )  
Chairman



( N. Sahu )  
Member (A)

/as/