

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. No. 6 of 1993

New Delhi, this the 11th day of August, 1995.

Hon'ble Mr. B.K. Singh, Member (A)

Mahender Singh,  
S/O Shri Daryae Singh,  
R/O FB-15/2, Tagore Garden,  
New Delhi-110027. ... ... ... Applicant.

( applicant in person )

vs.

## ORDER

(delivered by Hon'ble Mr B.K.Singh, Member(A))

This O.A. No. 6/93 has been filed for non-payment of bonus and for treating the period during suspension as on duty and to grant annual increments. The brief facts are that the applicant was appointed in May, 1975 as Cash Clerk in Delhi Milk Supply Scheme, New Delhi. On 27.3.1976, the applicant was placed under suspension under Rule 10(2) of CCS(CCA) Rules, 1965 on the basis of a criminal case filed for misappropriation of funds. He was facing the criminal trial and during the period of suspension his services were terminated under Rule 5 of the CCS(T.S.) Rules, 1965. On 7.3.1980, the applicant was given the benefit of doubt in the criminal

case and was acquitted.

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The applicant filed a Civil Suit against the termination order dated 10.1.1978 in the District Court, Delhi. The said suit was transferred to this Tribunal after the Principal Bench was constituted w.e.f. 1.11.1985. On 5.9.1988, this Tribunal quashed and set aside the termination order and placed the applicant under deemed suspension w.e.f. 10.1.1978 with entitlement to subsistence allowance. This order was passed in TA No. 351/86. In pursuance to the order of the Tribunal, the respondents (i) set aside the order of termination dated 10.1.1978; (ii) further inquiry against the applicant was ordered to be held; and (iii) the applicant was placed under deemed suspension under Rule 10(4) of the CCS(CCA) Rules, 1965, w.e.f. 10.1.1978.

The applicant was removed from service after holding an enquiry on 1.12.1989. The order has been assailed by the applicant in another O.A. The applicant went in appeal to the Hon'ble Supreme Court, which modified the judgment of the Tribunal dated 5.9.1988 and reinstated the applicant with full back wages. In compliance with the orders of the Hon'ble Supreme Court the respondents ordered re-instatement from 10.1.1978 to 9.11.1988 with full back wages but did not regulate the suspension from 27.3.1976 to 9.1.1978.

In the present O.A. neither the increments nor bonus was paid to the applicant for the suspension period. The applicant filed Contempt Petition No. 244/92 in CA 1821/91 on 16.1.1992 against the action of the respondents and this Contempt Petition was dismissed by a Full Bench of the Hon'ble Supreme

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Court. Thus, it would be seen that this application is barred by the principles of res-judicata. The dismissal of the Contempt Petition by a Full Bench itself indicates that no relief can be sought in regard to payment of bonus and for grant of increments for this period. The respondents did not treat period the period from 27.3.1976 to 9.1.1978, as spent on duty. How the period under suspension is to be regulated has to be decided by the competent authority and if the competent authority has not treated the period under suspension from 27th March, 1976 to 9th January, 1978, he would not be entitled either the grant of increments or for payment of bonus since it is a productivity linked bonus and he was under suspension, and therefore, he did not contribute anything to the service and as such he is not entitled to the grant of bonus.

This question was also raised through a CCP before the Hon'ble Supreme Court and the Full Bench of the Hon'ble Supreme Court dismissed the contempt petition and therefore, the matter has achieved finality. So far as the orders of the Hon'ble Supreme Court regarding payment of full wages are concerned for the period he was re-instated and paid full wages till the period he was placed under suspension prospectively for holding fresh inquiry in which the penalty imposed by the competent authority is that of removal from service. Thus, this is hit by the doctrine of res judicata inasmuch as this matter has been finally adjudicated upon by the Hon'ble Supreme Court and has thus achieved finality. The doctrine of res judicata applies to all the Courts universally and the basic ingredients

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are that there should be an end to litigation in order to avoid vexation to aggrieved party and also in order to avoid unnecessary expenses on the part of the State and the person concerned. On merits also, as stated above, the applicant has no case for grant of increment since the period has not been treated as on duty. He is also not entitled to productivity linked bonus since he did not contribute anything to service since he did not contribute anything while he was under suspension. The application, accordingly is dismissed being devoid of merit but without any order as to costs.

( B.K.Singh )  
Member(A)

/sds/

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