

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 29th day of April, 2002.

Original Application No.334 of 1996.

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Maj Gen KK Srivastava, A.M.

Mahmudul Hasan S/o Shri Nurul Hasan,

Resident of A-25/134, Salempur,

District Varanasi, Ex-Postal Assistant,

Under S.S.P.Os, Varanasi.

(Sri B.Tewari, Advocate)

. Applicant

Versus

1. Union of India through the Secretary,
Department of Posts, Ministry of
Communication, New Delhi.
2. The Post Master General, Allahabad.
3. The Senior Superintendant of Post Offices,
Varanasi Division, Varanasi.

(Sri R.C. Joshi, Advocate)

. Respondents

O R D E R (O_r_a_l)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

By this OA the applicant has challenged the order dated 18-1-1986 (Annexure-A-1) by which the applicant had been compulsorily retired from service on the basis of the judgement dated 11-12-1995 passed in Criminal Case No.2225/1994 under Section 409 I.P.C. convicting and sentencing the applicant for a sentence of R.I. of 1½ years with penalty of Rs.2000/-.

2. The facts of the case are that the applicant was serving as Treasurer in Varanasi Post Office. As the amount of Rs.15,974/03 was found short (Cash and Stamp) and the applicant could not explain reason for shortage,



a First Information Report was lodged in P.S. Chauk, Varanasi and the case was registered as Case Crime No. 177/1986 under Section 409 I.P.C. against the applicant. The charge sheet was submitted in the Court. The applicant was tried and convicted vide the judgement and order dated 11-12-1995 and sentenced to 1½ years R.I. and a fine of Rs.2000/-. The applicant filed a Criminal Appeal No.115/1995. The Learned Session Judge allowed the Appeal and set aside the order dated 11-12-1995 and acquitted the applicant vide the judgement and order dated 19-12-1996. The Learned Session Judge directed to recover the loss sustained by the ^{respondent} ~~applicant~~. The applicant has deposited the amount of Rs.2186/03 vide receipt no.264 dated 14-2-97.


2. Before the conclusion of the criminal case disciplinary proceedings were initiated against the applicant under Rule 14 CCS(CCA) Rules, 1965 by serving a Memo of Charge dated 18-1-1996. The Inquiry Officer and Presenting Officer were appointed. On receipt of enquiry report the applicant was awarded ^{or punishment} for recovery of Rs.15,974/03 and reduction of pay by three stages from Rs.1240 to Rs.1150 for three years. Against the aforesaid order the applicant filed OA No.110/1989 which was dismissed by this Tribunal on 21-2-1997. Thus the orders passed in disciplinary proceedings became final against the applicant. However, before the judgement in Criminal Appeal the impugned order dated 18-1-1996^u was passed against the applicant compulsorily retiring him under Rule 19(1) of CCS(CCA) Rules, 1965, which is challenged by the applicant by filing this OA.

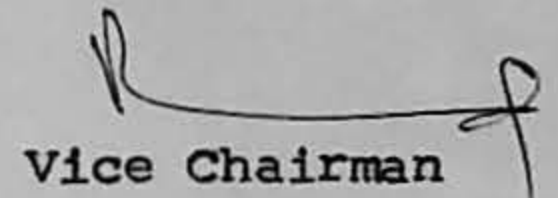
3. As the applicant has already been acquitted by the judgement and order of Learned Session Judge dated 19-12-1996, in our opinion, the impugned order cannot be sustained. So far as the departmental proceedings are concerned, the applicant was already punished which was challenged in this Tribunal and has become final against

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him. The second punishment for the same misconduct could have not been legally passed. In the circumstances the applicant is entitled for the relief.

4. The OA is accordingly allowed. The impugned order dated 18-1-1996 (Annexure-A-1) is quashed. The applicant is entitled for reinstatement with all consequential benefits. The amount, however, paid to the applicant on account of the order of compulsory retirement may be adjusted. There shall be no order as to costs.


Member (A)


Vice Chairman

Dube/