

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 07th day of December, 2001.

Q U O R U M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. C.S. Chadha, Member- A.

Original Application No. 916 of 1996.

Abdul Qayum Khan S/o Late Rahmat Khan
a/a 57 years. Lineman Telegraph, Lohari, Jhansi.
Address for service of notice- ditto.

.....Applicant

Counsel for the applicant :- Sri M.K. Upadhyay

V E R S U S

1. Union of India through the Secretary,
M/o Communication, New Delhi.
2. Sub Divisional Officer, Telecom, Kanpur.
Now at Orai.
3. Divisional Engineer, Telephones, Jhansi.
4. Director General of Telecom, New Delhi- 1.

.....Respondents

Counsel for the respondents :- Sri Satish Chaturvedi

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this O.A under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed to quash the order dated 12.11.1983 passed by the disciplinary authority under which applicant was dismissed from the service. He has also prayed to quash the appellate order



dated 27.10.1989 by which appeal was dismissed. It has also been prayed that the period of suspension may be treated on duty and the impugned order dated 31.12.1991 may be quashed. He has also prayed for other consequential benefits.

2. The facts of the case are that the applicant was serving as Lineman in Telecommunication Department. The allegation against the applicant was that on 31.08.1980, he alongwith one Sri Shambhu Nath Mishra, another Lineman, attacked with a knife ~~to~~ Sri Bal Krishna Shukla, Junior Engineer and injured him. F.I.R to this effect was lodged against the applicant in Akbarpur Police Station, Kanpur Nagar. Criminal case No. 285/1982 was filed against the applicant. He was tried in the court of Judicial Magistrate, Akbarpur. Learned Magistrate by his judgment dated 03.12.1983 convicted the applicant and Sri S.N. Mishra and sentence them R.I for 6 (six) months. On basis of the conviction and sentence, applicant was dismissed from service. The applicant filed criminal appeal No. 174/1983 in Court of Sessions Judge, Kanpur. The appeal filed by the applicant was partly allowed on 11.04.1984. The operative part of the order of the appellate court reads as under :-

" The appeal is allowed in part. The conviction of the appellant Shambhoo Nath under section 332/34 I.P.C is upheld. Similarly the conviction of the appellant Abdul Qayum Khan under section 324 I.P.C is upheld. The conviction of the appellant Ram Behari Mishra and Ram Gopal under section 324/34 I.P.C is also upheld. The sentence awarded to them by the trial court is, however, set-aside. The appellants shall be released on probation under section 5 of the ~~First~~ ^{with} Offenders Probation Act on executing a personal bond ^{with} two

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surotior in the sum of Rs. 2000/- each to appear and receive sentence within two years when called for and in the meanwhile to keep peace and be of good charector. They are allowed 10 days time to execute the bonds and will remain on bail already....."

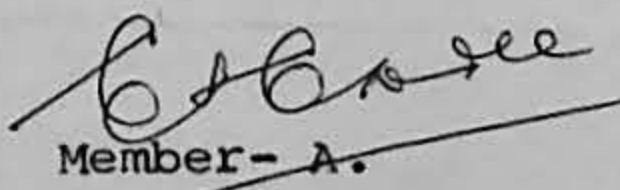
3. Thereafter, the applicant approached the department and requested for re-instatement. The appellate authority vide order dated 27.10.1989, re-instated the applicant and substituted the punishment of dismissal by reducing the applicant for a period of three years to the basic pay of Rs. 210/- . He also directed that the applicant will not earn any increament during this period of three years.

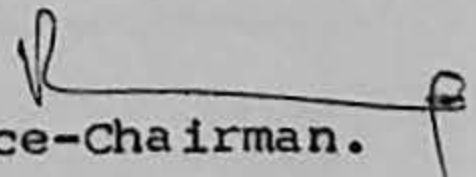
4. Co-accused of the applicant Sri Shambhoo Nath Mishra also filed O.A No. 370/1997 in this Tribunal. The Division Bench of this Tribunal gave following direction :-

" For the above, the impugned order is set aside and the competent suthority in the respondents establishment is directed to reconsider the matter and decide within three months from the date of communication of this order, keeping in view the above observation and legal position in this regard. The O.A is disposed of accordingly with no order as to costs."

5. As the question of facts and law involved in both the cases are similar, in our opinion, the applicant is also entitled for the same relief. For the reasons^{already}/stated in the order of this Tribunal Dt. 26.07.2001 in the O.A mentioned above, this O.A is disposed of on the same terms and conditions.

6. There will be no order as to costs.


Member- A.


Vice-Chairman.

/Anand/