

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH

ALLAHABAD

DATED: THIS THE 30th DAY OF JUNE, 1997

Coram : Hon'ble Mr. T. L. Verma JM
Hon'ble Mr. S. Dayal AM
- - - - -

Review application No. 24/97

IN

ORIGINAL APPLICATION NO. 1567/94

Sri Srinarain Katiyar- - - - - Applicant

C/A S/Sri N.K.Nair & M.K.Upadhyaya

Versus

Union of India and others- - - - - Respondents

Order

By Hon'ble Mr. T. L. Verma JM

This application has been filed for review of the order dated 28.12.1996 passed in o.a. no. 1567/94.

2. The aforesaid O.A. was filed for issuing a direction to the respondents to reinstate the applicant on the post of Repeater Station Assistant with all consequential benefits. The brief facts of the case are that the applicant, while working as Repeater Station Assistant, was involved in a criminal case and was arrested in connection with the said case. He was put under suspension w.e.f. 2.1.1974 pending trial. He was convicted by the Sessions Judge, Kanpur by judgment and order dated 26.11.1977. The conviction and sentence passed by the Sessions Judge, Kanpur was, however,

set aside by the High court of Judicature at Allahabad in the criminal appeal filed by the applicant. Even after the acquittal of the applicant by the High court he has not been reinstated, ^{O.A. No 1567/94} ~~Wenca. tana application~~ was filed. The O. A. Was allowed in part and the following directions were issued :

" In the result, we allow this application in part and direct the respondents to pass appropriate order on the representation submitted by the applicant. In case the applicant has been fully exonerated of the charges levelled against him, he shall be reinstated in service. He will also be entitled to pay and allowances in terms of F.R.54(2). The direction shall be complied with within three months from the date o communication of this order. Parties shall bear their own costs."

3. In the review application , it has been submitted that the Hon'ble Supreme court in ^{Brahma Gupta} ~~Chandra~~ V/s Union of India and others (1984) SC cases (L&S) 268, Babu Lal V/s State of Haryana 1991 SC cases (L&S) 488 has held that in a case where the applicant is terminated from service on account of his involvement in a criminaal case without initiating any disciplinary proceedings against him, on his acquitta-l should be reinstated with all consequential benefits as if he had not been terminated from service. The Hon'ble Supreme court in the case of Brhama Chandra Gupta observed as follows :

" The appellant, a permanent UDC, was suspended in 1962 pursuance to criminal prosecution launcched against him. During the suspension period he was paid subsistence allowance. The trial court convicted him as a result of which he was dismissed from service. But on appeal his conviction was set aside and

he was acquitted. Consequently, he was reinstated in service. In order to decide payments for suspension period the concerned authority divided the period of suspension into two periods--first being from the date of suspension to the date of acquittal and the second being from the date of acquittal to the date of his reinstatement in service. With regard to the latter part, the concerned authority directed the payment of full salary after giving credit for the suspension allowance that was drawn by him. For the first period the concerned authority was of the view that the appellant could not be said to be fully exonerated and, therefore, directed payment of three-fourth of his salary. But the appellant claimed full salary for the first period also and prayed for a decree of Rs.3,595.07 only. Allowing the appeal with the direction for payment of the amount decreed with 9 percent interest per annum from the date of suit till realisation with costs throughout. the Supreme court.

The appellant was a permanent UDC who has already retired on superannuation and must receive a measure of socio-economic justice. Keeping inview facts of the case that the appellant was never hauled up for departmental enquiry, that he was prosecuted and had been ultimately acquitted, and on being acquitted he was reinstated and was paid full salary for the period commencing from his acquittal, and further that even for the period in question the concerned authority had not held that that the suspension was wholly justified because three-fourth salary was ordered to be paid it must be held that in this case full amount of salary should have been paid to the appellant on his reinstatement for the entire period---(Para 6) R.M/6429/CSL. "

5. All cases in which a governement servant is terminated from service on account of pendency of criminal proceedings will be governed by the principle of law laid down by the Hon'ble Supreme court in the aforesaid case. This decision was not broughtto our notice at the time the judgment sought to be reviewed was passed. Be that as it it may, case of the applicant will also be governed by the principle of law down by the Hon'ble Supreme court in the above two cases.

6. That being the position, respondents are under the obligation to dispose of the representation of the applicant in the light of the decision of the Hon'ble

Supreme court referred to above though the same have not been mentioned in the operative portion of the judgment sought to be reviewed. In case, however, the respondents do not decide the representation of the applicant in the light of the decision of the Hon'ble Supreme court, relevant ~~operative~~ portion ^{of} which has been extracted ~~above~~ in one of the preceding paragraph, it would be open to the applicant to challenge the order before a legal forum.

7. This review application is accordingly disposed of with the above observations.

Shivaji
Member (A)

J. Verma
Member (J)

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