

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

Original Application No.1120 of 2005.

Allahabad, this the 29th day of November, 2006.

Hon'ble Mr. Justice Khem Karan, Vice-Chairman
Hon'ble Mr. P.K. Chatterji, Member (A)

Anirudh Yadav, aged about 51 years,
Son of Shri Bairagi Lal,
R/o Q.No.ET-1, Armapore Estate,
Kalpi Road, Kanpur.

....Applicant.

(By Advocate : Shri R.K. Shukla)

Versus

1. Union of India, through the Secretary, Ministry of Defence, Deptt. Of Defence Production & Supplis, New Delhi-11.
2. The Secretary, Ordnance Factory Board, 10-A, S.K. Bose Road, Kolkata-1.
3. The General Manager, Field Gun Factory, Kalpi Road, Kanpur.

.....Respondents.

(By Advocate : Shri S.C. Mishra)

O R D E R

By Hon'ble Mr. Justice Khem Karan, V.C. :

The prayer is for quashing the impugned order dated 28.5.1996 (Annexure-1) by which the period of suspension 12.7.1994 to 3.3.1996, was directed to be treated as not on duty and pay for that period was restricted to the subsistence allowance and order dated 5.5.1997, by which appeal against the said order was rejected by the

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authority concerned. It is also prayed that the respondents be directed to pay the applicant full pay and allowances for the suspension period and treat that period for all purposes as on duty.

2. There is no dispute between the parties that the applicant and one Shri T.P. Singh were involved in a criminal case under Section 452, 366/511 and 506 of I.P.C. The applicant and Shri T.P. Singh were placed under suspension because of the pendency of the investigation into the said charges. It has been stated that after trial, the criminal court acquitted the applicant and T.P.Singh both, vide order dated 4.12.1995. It is further not in dispute that the said acquittals became final. The applicant was reinstated in service. Thereafter, the impugned order regarding the treatment of the suspension period and the pay etc. of that period was passed by the competent authority. Though the applicant took the matter in appeal but he remained unsuccessful.

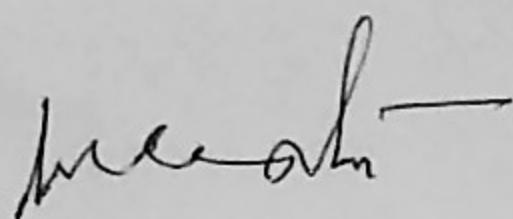
3. Learned counsel for the applicant has submitted that in such a case where an employee was placed under suspension or was deemed to be under suspension, during the investigation of inquiry or trial into the criminal charges but was acquitted after trial, period of suspension cannot be dealt with in the manner it has been done by impugned order dated 28.5.96. Shri Shukla has referred to the decision dated 29.7.2005 rendered by the Bench in OA No.817/05 wherein the view has been taken that in such a case the employee concerned could not be deprived of pay or other benefits of the suspension period. He says that the decision dated, given in the case

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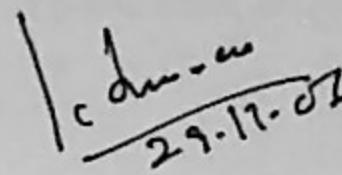
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of Shri T.P.Singh (OA No.817/05) squarely covers the case of the applicant. Counsel for the respondents does not say that the decision in the case of T.P.Singh does not apply to the facts of this case.

4. We are of the view that the applicant is entitled to the relief claimed. ~~So~~^{hence} the OA is allowed and the order dated 28.5.1996 and 5.5.1997 are quashed and the respondents are directed to pay to him the salary for the suspension period, adjusting the amount paid as subsistence allowance and treat that period as spent on duty over all purposes. No costs.



Member-A


29.11.02

Vice-Chairman

RKM/