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(Open Court)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

ALLAHABAD this the 18th day of July, 2005.

Original Application No. 763 of 2005.

**Hon'ble Mr. Justice S.R. Singh, VC.
Hon'ble Mr. S.C. CHAUBE, AM.**

Abdul Zabbar, aged about 40 years,
S/o late Ali Hussain, R/o 116/215
Armapur State Kailash Nagar,
Kanpur Nagar.

.....Applicant

By Advocate : Sri M.K. Misra.

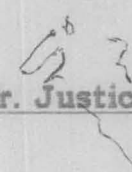
VERSUS

1. Union of India through Secretary,
Ministry of Defence.
2. Senior General Manager, Ordnance Factory, Kanpur.
3. Joint General Manager, Ordnance Factory, Kanpur.

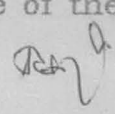
.....Respondents

By Advocate : Sri Saumitra Singh

ORDER


By Mr. Justice S.R. Singh, VC.

The applicant was placed under suspension vide order dated 4.6.1991. It was not disputed that the applicant was suspended on the ground of the alleged involvement in the criminal case. However, by means of the subsequent order dated 20.7.1994, the suspension of the applicant was revoked in exercise of the powers conferred by clause © of the Sub-Rule 5 of Rule 10 of the CCS (CCA) Rules, 1965 without prejudice to the outcome of the court case pending against



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him. The applicant has been acquitted of the offence under Sections 379/411/323/506 IPC vide judgment and order dated 1.9.1998 by the Third Metropolitan Magistrate, Kanpur Nagar in case no. 1483 of 1995 arising out crime no. 199 of 1991. The grievance of the applicant is that though the suspension of the applicant has been revoked, he has not been paid the subsistence allowance for the period during which he remained under suspension. It is further submitted that the applicant has preferred a representation dated 22.3.1994 for redressal of the grievance regarding non-payment of subsistence allowance.

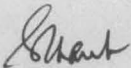
2. The respondents have filed Counter affidavit today stating therein that without prejudice to the outcome of the Court case pending against the applicant, he was allowed to resume his duties w.e.f. 25.7.1994 as notified in F.O. Pt. II no. 3307 dated 18.8.94. It is further stated that the applicant's representation dated 22.9.1998 alongwith a copy of the judgment of the Criminal Court was examined by the disciplinary authority and "it was found that the applicant was not honorably exonerated from the criminal charges". It is further stated that his "acquittal from the criminal charges as above, was as PW-2 turned hostile during his examination in the Court of law". It is also stated in the Counter affidavit that so far as the Factory Board's letter no. 1480/A/VIG/CCS (A) Vol. II dated 21.2.1983, the period of suspension from 4.4.1991 to 16.4.1991 and from 4.6.1991 to 24.7.1994 was regularized vide F.O. Pt. II No. 340 dated 25.1.1999 and the "applicant is not entitled for further pay and allowances beyond the subsistence allowance and

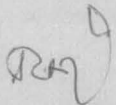
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other allowances, already paid to him." The learned counsel for the applicant has submitted that the applicant only wants ~~for~~ payment of subsistence allowance for the period during which he remained under suspension and nothing more. For that purpose, he has file a representation. ^{in from} In the order dated 25.1.1999 (Annexure CA-3 to the Counter Affidavit), it would be clear that the applicant would not be entitled for further pay and allowances beyond the subsistence allowance and other allowances already paid to him during the period of suspension. This clearly indicates that the applicant has been paid certain amount of subsistence allowance and other allowances during the period of suspension and if according to him, he was entitled to more amount by way of subsistence allowance, he ought to have challenged the order dated 25.1.1999. Since the order dated 125.1.1999 has attained finality, it is not possible for us to direct the respondents to consider the case of the applicant for payment of further subsistence allowance. The learned counsel for the applicant has stated at the Bar that he does not wish to file any Rejoinder affidavit to the Counter affidavit filed by the respondents. Therefore, the averments made in the Counter Affidavit are un-controverted and deemed to be accepted in the eyes of law.

3. In the circumstances, the O.A. is devoid of merit and the same is accordingly dismissed. No costs.


MEMBER-A


VICE CHAIRMAN

GIRISH/-