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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No. 1662 of 1986  
(C.A. No. 575/7 of 1985)

Union of India & Another ..... Defendants-Appellants  
Versus

Mohd. Zafar ..... Plaintiff-Respondent

Hon. S. Zaheer Hasan, V.C.  
Hon. Ajay Johri, A.M.

(By Hon. S. Zaheer Hasan, V.C.)

Civil Appeal No. 575/7 of 1985 has been transferred to this Tribunal from District Judge, Kanpur under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The plaintiff filed the suit for declaration that the order of suspension is illegal and the same should be set aside and the consequential relief be granted to him. His case is that he was working as Diesel Khalasi and in connection with a false case under Section 363/366 Indian Penal Code he was arrested on 20.8.76 and was released on bail after 27 days. He informed the authorities about his release on bail but no action was taken. He was suspended on 27.10.76 but no chargesheet was however given to him. The learned Asstt. Sessions Judge by his order dated 10.8.79 discharged him at the stage

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of framing of charge. He informed the authorities enclosing a copy of the judgement of the Asstt. Sessions Judge but no action was taken. A notice under Section 80 Code of Civil Procedure was also given mentioning all these facts therein but no action was taken.

3. According to the written statement the plaintiff was correctly suspended and no departmental proceedings were in offing therefore the question of giving a chargesheet does not arise. So the plaintiff is not entitled to any relief. The learned Munsif decreed the suit and declared that suspension ~~order~~ from 20.8.76 was ineffective from 10.8.79, the date of the judgement of the Sessions Judge. The authorities were ordered to reinstate him according to rules. Aggrieved by the judgement the Union of India has come up in appeal which has been transferred as stated above. Section 227 Code of Criminal Procedure, 1973 lays down that if upon the consideration of the record of the case and the documents submitted therewith, and after hearing the submission of the accused and the prosecution in this behalf, the Judges consider that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing. This is a new provision in the Criminal Procedure Code. The idea is that the court's time should not be wasted in trying the accused if from

the evidence on the file it appears that there is no sufficient ground for proceeding against the accused. This case was committed to the court of Sessions and at the time of first hearing the learned Asstt. Sessions Judge scrutinized the medical report and held that all the witnesses including the prosecutrix (the case was under Section 366/363 I.P.C.) had filed affidavits and there was no evidence for framing charge. So he discharged all the accused persons including the plaintiff. In all there were five accused. There was no question of passing order of acquittal. The case was not worth trial because there was no evidence against the accused. So it cannot be contended that the accused was let off on technical ground or was given benefit of doubt. <sup>u</sup> Simply The accused was discharged <sup>u</sup> and at the aforesaid stage <sup>u</sup> and it cannot be said that the accused had committed any crime or there was any doubt in that connection. No appeal was filed against the order of discharge nor departmental action taken. The suspension order was passed on 29.9.76 w.e.f. 20.8.76. It does not appear that any periodical scrutiny was made regarding continuing the suspension period. We are running in the year 1988 and till today no chargesheet has been submitted nor <sup>u</sup> any enquiry has been made regarding continuing the suspension order. It was also the duty of the Department concerned to have made enquiry <sup>to find out</sup> as to what had happened in the

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The plaintiff's version is that he has informed ~~them~~ about discharge but no action was taken. In any case notice under Section 80 Code of Civil Procedure was served, <sup>on</sup> the postal acknowledgement indicates, on 18.10.79 but even thereafter no action was taken. Some correspondence took place over the name of the plaintiff. It was not properly written in the judgement and the chargesheet. The plaintiff was bailed out as Mohd. Zafar. His name is also Mohd. Zafar. But in the chargesheet his name has been shown as Zafar Ahmed. So in view of the above we do not find any good ground to disagree with the finding of the learned Munsif who had declared the suspension order as illegal. The appeal No.575/7 of 1985 is dismissed with the remark that the plaintiff-respondent be reinstated with all consequential benefits permissible under the law. Parties to bear their own costs.

अमर जौड़ा

Member (A)



Vice Chairman

Dated the 12 Jan., 1988

RKM