

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated 8th February, 1996

Original Application No.892 of 1987

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CORAM:-Hon'ble Mr. S. Das Gupta, A.M.Hon'ble Mr. T.L. Verma, J.M.

Hari Prakash Sharma

S/o Sri Babu Ram Sharma

Branch Post Master

Post and Telegraph Department
of Union of India.

(By Sri K.K. Mishra, Advocate)

. Applicant

1. Post Master General U.P.,
Lucknow.2. Superintendent of Post Offices
Etah Division, Sub Division Kasganj,
District Etah.3. Inspector of Post Offices,
Sub-Division Kasganj,
Etah.

(By Sri N.B. Singh, Advocate)

. Respondents

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By Hon'ble Mr. S. Das Gupta, A.M.

The applicant in this OA filed under Section 19 of the Administrative Tribunals Act, 1985, has sought reinstatement in service with all benefits w.e.f. 13-11-1973. He has also sought a direction to the respondents to refund a sum of Rs.3364/ with interest.

2. The applicant's case is that on the basis of a FIR filed against him under Section 409/420/468 of the I.P.C. a criminal case was lodged against him ^(L.P.O.) which he was acquitted by the judgement of the Munsif Magistrate, Kasganj, District Etah by order dated 15-2-1986. Thereafter the applicant had approached his superior officers and informed about his acquittal. He also submitted representation for his reinstatement which was followed by reminders but having failed to obtain redressal he had approached this Tribunal. It has also been alleged that in 1973, he had deposited a sum of Rs.3364 in three instalments and since he has been now acquitted of the charges of misappropriation of this amount, he submitted an application for refund of the said amount, but in vain. Hence this application praying for the reliefs aforementioned.

3. The respondents have filed the counter affidavit in which it has been stated that during the pendency of the criminal case based on the first FIR it came to light that the applicant had again misappropriated government money and, therefore, another report was sent in 1974 based on which a FIR was recorded in 1977. This matter is still said to be pending and although the department is pressing hard for finalisation of the proceedings, because such proceedings are

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yet to be concluded. It has been further stated that the department also decided to proceed against the Petitioner by initiating disciplinary proceedings and pursuant to such decision a charge sheet was also served on the applicant. It has been alleged that the applicant is avoiding to reply to the same. An Inquiry Officer has also been appointed and the department is contemplating the conduct proceeding against the applicant ex parte, as he has failed to reply to the charge sheet.

4. As regards the amount of Rs. 3364 it has been stated that the applicant had deposited this amount which was mis-appropriated by him on his own accord and this amount has already been adjusted and, cannot therefore be refunded.

5. The applicant has not filed any rejoinder affidavit. Also when the case came up for hearing, none appeared for the applicant, to advance argument on his behalf. We, therefore, heard the learned counsel for the respondents and also perused the records.

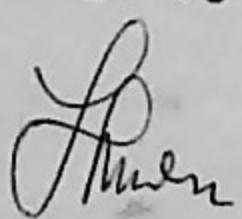
6. The respondents have not denied that the applicant has been acquitted of the criminal case which was initiated against him based on the first FIR. Had the matter ended there, the applicant no doubt, would have been entitled to be considered for re-instatement. It is, however, the specific contention of the respondents that subsequently the applicant was found to have mis-appropriated further money as a result of which a fresh FIR was recorded and criminal proceedings are yet to be concluded. Moreover, the departmental proceedings have also been initiated against

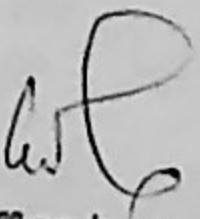
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the applicant the applicant which are also yet to be concluded. None of these contentions of the respondents have been controverted by the applicant. It is, therefore, clear that both the criminal and departmental proceedings are pending against the applicant and, therefore, if the order putting him off duty continues, we find nothing wrong in the action of the respondents. The decision to reinstate him or otherwise can be taken by the respondents only after the criminal/disciplinary proceedings are finally concluded.

7. So far as the refund of Rs.3364 is concerned, the specific contention of the respondents is that the applicant has deposited the said amount which represented the sum mis-appropriated by him of his own accord ^{and} the same sum of money has already been adjusted. This also has not been controverted by the ~~applicant~~ respondents. We, therefore, see no reason why the said amounts are to be refunded.

8. In view of the foregoing we see no merit in this application and we, therefore, dismiss the same. There shall, however, be no order as to costs.


Member (J)


Member (A)

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