

(A2/1) (5)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 956 of 1987

Kusheshwar Prasad Karan Applicant.

Versus

Union of India
and another Respondents.

Hon Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was initially appointed on 11.11.1948 as Trains Clerk in the scale of Rs. 55-130 and is said to have indulged in criminal activities and that is why a criminal case was registered against him, under Section 120-B I.P.C. read with Section 420 and 468 I.P.C. and by the trial court, he was convicted to undergo a rigorous imprisonment for one year and to pay a fine of Rs. 1000/- on each count. The matter was sent to the Higher court and thereafter it was remanded back again and ultimately it reached ^{to} the Higher Court and the High Court remanded the case and he was acquitted by the Additional District and Session Judge vide its judgment dated 23.12.1980; According to the applicant who was removed from service because of the conviction in the year 1975, his salary was withheld and he made continuous representations after representations and in the month of December, 1983 he attained the age of superannuation but even thereafter, nothing was paid to him.

2. The learned counsel for the applicant contended that as the conviction of the applicant was set aside,

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and he was acquitted, he was entitled to get the benefits and should have been reinstated in service with retrospective effect. Sri G.P. Agrawal, learned counsel for the Respondents has opposed the prayer of the applicant and has contended that this application is barred by time and the Tribunal should not entertain this application in view of the fact that the cause of action has accrued in this case in the year 1980 when he was acquitted and he should approach to the proper court of law at that stage but he has approached to the Tribunal which was borne in the year 1985, thus, the Tribunal can not entertain the matter. The learned counsel for the applicant has pointed out that he has made representations after representations. It may be that the applicant was in the hope of getting relief from the department but ofcourse, after failing to get the relief from the department, he ultimately, approached the Tribunal. It was open for the Tribunal to examine the adequacy of the penalty imposed in the light of the conviction and sentence inflicted on the person and if the penalty is uncalled for in regard to the nature of prima-facie case, the Tribunal can render the substantial justice ~~do so~~, and in this case, the applicant has already been acquitted, consequently, he was to be reinstated back in service, in case, he had not attained the age of superannuation. As the applicant has been approaching to the department, it can be said that the matter was pending.

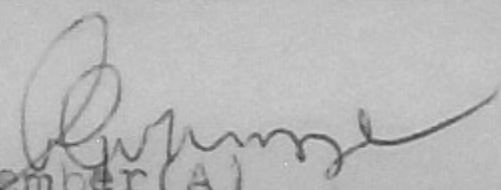
3. Accordingly, this application is entertained and the removal order of the applicant is quashed.

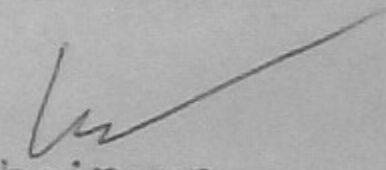
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However, in view of the fact that the applicant is responsible for delaying the matter, as such, he would not be entitled for any salary or allowance from the year 1975 upto the date when he attained the age of superannuation, but he will be deemed to be continuing in service and is entitled all the service benefits in accordance with law within a period of 3 months from the date of communication of this order. The applicant will be entitled for the salary from the month of November, 1974 till April 1975 in accordance with law. No order as to the costs.


Member (A)


Vice-Chairman

Dated: 2.11.1992
(n.u.)