

(A.M.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALIA HABAD BENCH

.....

Registration O.A. No. 33 of 1988

Phool Singh ... Applicant

vs

Union of India and ors... Respondents

Hon' Mr K. Obayya, A.M.

Hon' Mr J.P. Sharma, J.M.

(By Shri J.P. Sharma, J.M.)

The applicant filed the aforesaid application under section 19 of the Administrative Tribunals' Act, 1985, against the order dated 9.7.86 passed by Brig. Commander, Headquarter, Lucknow (Respondent No.4) by the impugned order, the services of the applicant as civilian sanitary <sup>male</sup> ~~meth~~, were dismissed. The applicant prayed that the impugned order dated 9.7.86 passed by respondent no.4 be quashed and the applicant be ordered to be reinstated with all consequential benefit treating him continuously in service.

2. The brief facts are that the applicant was an ex-army personnel and after discharge from the Army, he was employed in May, 1977 as civilian Sanitary Meth in the station Hqrs, Agra. He was made quasi permanent in May, 1980. On 2-7-1984 Naib Subedar Mr M.S. Gill lodged a FIR against the applicant under section 420/471/353 I.P.C. alleging that the applicant on the basis of forged certificate wanted to get some recruitment made and also obstructed the official working of the complainant. On the basis of this F.I.R. a charge sheet was submitted

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against the applicant and another. The applicant was prosecuted in a criminal court and charges were framed against him. On 9-7-86 the services of the applicant were terminated by the following orders: " x x x x x x 1. WHEREAS Shri Phool Singh, Sanitary Mate has been convicted on a criminal charge, to wit, under Rule 3 of Central Civil Services Rules, 1964.

2. AND WHEREAS it is considered that the conduct of the said Shri Phool Singh, Sanitary Mate, which has led to his conviction is such as to render his further retention in the public service undesirable.

3. NOW, THEREFORE, in exercise of the powers conferred by Rule 19(i) of the Central Civil Services (Classification Control and Appeal) Rules, 1965, the undersigned hereby dismisses the said Shri Phool Singh, Sanitary Mate from service. Sd/- Brig. Commander." However, it is alleged by the applicant that he was not convicted and terminated only on the submission of the charge sheet by the prosecution. There is no evidence against this fact.

3. Respondent did not file any counter or reply <sup>sheet</sup> and the order dated 20-5-88 shows that if no reply is filed by 30-8-88, the case will be heard ex-parte. No reply has been filed by the respondents till the date of hearing.

4. We have heard the learned counsel for the applicant. The learned counsel has filed a copy of the judgment passed by the learned Additional Chief Judicial Magistrate, Agra, State vs. Phool Singh dated 27-3-89 by which the learned Magistrate has acquitted the accused Phool Singh against all the sections for which he was charged. There is nothing on record to show that this judgment is not final.

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The main reason in the mind of the respondent no.4 while dismissing the applicant was, his involvement in a criminal case. There was no inquiry held against him. In any case, since the applicant had been acquitted, so there remains no stigma attached to him and he has to be given the employment for which he was appointed.

5. We are supported by the authorities ;

" 1986(1) SLJ 42 CAT C.J.C.V. Cheema vs Union of India.

1986 (2) SLJ (CAT) 39 G. Ramkrishna Rao vs State of Pandhra Pradesh. "

6. We, therefore, find the impugned order dated 9-7-86 cannot stand and is, therefore, quashed. The application is allowed. The respondents are directed to reinstate the applicant within a period of two months. However, the applicant shall not be paid any back-wages in the special circumstances. Accordingly the petition is disposed of with no order as to costs.

Somane  
MEMBER (J)

(sns)

Aug 23, 1990.

Allahabad.

Ghoseyfe  
MEMBER (A)