

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 1575 of 1993

Kanhaiya Lal and anotherPetitioner

Versus

Union of India and Ors Respondents

CORAM

HON'BLE MR. JUSTICE R.K. VARMA, V.C.

HON'BLE MISS. USHA SEN, MEMBER (A)

(By Hon. Mr. Justice R.K. Varma, V.C.)

The petitioners who are respectively Painter Grade II and Packer in the D.C.O Store, North Eastern Railway, Izat Nagar Bareilly were convicted in criminal case No. 1499/80 for offence Under section 3, Railway Property(Unlawful possession Act) and sentenced to undergo R.I. for one year each and to pay a fine of Rs.1000/- each and in default thereof to undergo further R.I. for six months each by judgment/order dated 5.11.90 passed by the VIIIth Additional C.J.M. Bareilly. The petitioners were removed from service as a result of the conviction and sentence awarded to them.

2. In appeal the petitioners were acquitted by judgment/order dated 4.9.91 passed by the Addl. Sessions Judge Bareilly. Consequently, the petitioners have been taken back on their jobs.

3. As per letter dated 19.3.93 issued by the Controller District Stores Izat Nagar to the petitioners

on the subject of regularisation of their service for the period from the date of their removal as a consequence of conviction and the date of reinstatement as a consequence of acquittal in appeal. The petitioners have been informed that the respondents have filed appeal against the judgment of their acquittal in the High court and the action for regularising the service of the petitioners for the period elapsing between the removal and reinstatement shall be taken after the decision of the Highcourt.

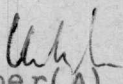
4. By this petition, the petitioners have claimed to be regularised even before the decision of the High court and to be paid the salary for the period between the removal and reinstatement.

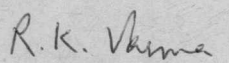
5. We think that the petitioners shall not be entitled to be paid for the period they were not on duty in the event of the decision of the High Court going against them. As such we do not find it just and proper at this stage to interfere and supersede the respondent's discretion of deferment of regularisation and consequential payment for the period the petitioners have ^{kw} ~~not~~ actually not worked. However, in the event of the respondent's appeal in the High court being dismissed, the respondents would be bound to take action immediately for regularisation of the service of the petitioners for the period of their absence on account of conviction and make payment of the emoluments due for the period accordingly as per the assurance given in their

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aforesaid letter dated 19.3.93(Annexure 5 to the petition).

6. With the above observation, this petition is dismissed summarily.


Member (A)


Vice Chairman

^{23rd Nov}
Dated: Feb 29, 1994

Uv/