

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 19th day of February 2001.

Original Application no. 413 of 1993.

Hon'ble Mr. V. Srikantan, Administrative Member
Hon'ble Mr. S.K.I. Naqvi, Judicial Member

Chandra Dev,
S/o Shri Shiv Baran,
R/o Village Sikanderpur,
P.O. Pin Nagar,
Distt. GHAZIPUR.

... Applicant

C/A Shri Rajni Kant Tewari

Versus

1. Union of India, through Secretary,
Narcotics Department,
Govt. of India,
NEW DELHI.
2. Manager, Government Opium and Alkaloid Works,
Ghazipur.
3. General Manager, Government Opium and
Alkaloid Works, Ghazipur.

... Respondents

C/Rs. Km. Sadhana Srivastava.

...2/-



O R D E R (oral)

Hon'ble Mr. S.K.I. Naqvi, Member-J.

The applicant, Shri Chandra Dev has come up seeking relief to the effect that the respondents be directed to reinstate the applicant in service with all consequential benefits.

2. As per applicant's case, it was on 25.01.85 that he was taken into custody and forced to sign some blank papers and, thereafter, given a show cause notice on the alleged charge of stealing contraband opium and throwing it into the well. He was simultaneously, on that very date i.e. 25.01.85, was given an order of dismissal from service. He approached the High Court in Civil Misc. side, which was transferred to the Tribunal on the ground of jurisdiction and was registered in this Tribunal as T.A. no. 1971 of 1987, which was decided on 03.12.1991. As per applicant's case, this order of Tribunal is direction to the respondents to take him back in service and provide him all consequential reliefs. But, respondents declined to provide any relief and passed order dated 10.12.1992, against which the applicant has come up impugning this order and claiming above relief.

3. The respondents have contested the case and filed CA with the specific mention that the applicant

was caught by C.I.S.F. personnel while he was trying to run away with stolen contraband opium ~~being~~ ^{hiding} about 1Kg. The management, dismissed the applicant's service w.e.f. 25.01.1985. It has also been mentioned in the CA that the applicant had admitted his guilt, therefore, no inquiry was instituted against him. But an F.I.R. was lodged at Kotwali, Ghazipur and the applicant was prosecuted for this theft, but after trial he was acquitted on 30.09.1988. Notwithstanding the finding of ~~acquittal~~, the respondents adhered to their decision to dismiss the applicant from service.

4. Heard learned counsel for the rival contesting parties and perused the record.

5. The main grievance of the applicant is that inspite of direction by the Tribunal to departmental authorities to provide the relief, sought for in the connected Writ Petition, have not been provided to him and instead there of, this order dated 10.12.1992 has been passed. Learned counsel for the applicant referred to order dated 03.12.1991 in the T.A. 1971 of 1987 to mention that it was a simplicitor direction to the respondents to provide the relief to the applicant which he sought for in the connected application which was heard as T.A. . In reply learned counsel for the respondents mentions that it was ^a ~~only~~ simplicitor case which was decided by providing an opportunity to the applicant to make fresh representation before the authorities in the department and the departmental authorities were required to consider the same.

Learned counsel for the respondents also took us to the observation of the Tribunal in para 2 of the referred order in which it has been held that " It is clear that on the basis of admission the authority could have removed him and he was removed." and the matter was referred to the departmental authorities only to have a second look in view of acquittal order.

6. Learned counsel for the respondents, ~~has~~ also took us through the law laid down in 1998 SCC (L&S) 148, Govind Das Versus State of Bihar & Others, in which it has been held :-

" The acquittal of the appellant in the criminal proceedings is based on the view that the charges were not proved beyond reasonable doubt. Since the standard of proof required to prove a charge of misconduct in departmental proceedings is not the same as that required to prove a criminal charge, the acquittal of the appellant in the criminal case could not be made the basis of setting aside the order for termination of the service of the appellant passed in the disciplinary proceedings on the basis of evidence adduced in the departmental inquiry conducted in the charges levelled against the appellant."

7. Keeping in view the facts and circumstances of the matter as well as the referred law, we find that

Sev

// 5 //

there was no direction from the side of the Tribunal to provide relief to the applicant, but was only to the extent ~~of~~ to consider the prayer of the applicant, if he approaches again. The applicant approached the authorities, who considered the matter and passed order dated 10.12.1992, which is well detailed and ^{and} speaking order ~~which~~ needs no interference. The O.A. is dismissed accordingly. No order as to costs.

Sreekrishna
Member-J

R. Mohan
Member-A

/pc/