

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT NAINITAL, U.A.

Nainital this the 22nd day of April, 2003.

Original Application No. 876 of 1994.

Hon'ble Maj. Gen. K.K. Srivastava, Member- A.
Hon'ble Mrs. Meera Chhibber, Member- J.

Govind Ram Dargwal, Branch Post Master,
Maigadhar (Ghanshali), Distt. Tehri, Tehrigarhwal.

.....Applicant

Counsel for the applicant :- Sri J.C. Pandey

V E R S U S

1. Post Master General, U.P, Lucknow.
2. Superintendent of Post Offices, Tehri,
Tehrigarhwal.
3. Union of India through the Secretary,
M/o Telecommunication, New Delhi.

.....Respondents

Counsel for the respondents :- Sri R.C. Joshi

O R D E R (Oral)

By Hon'ble Maj. Gen. K.K. Srivastava, Member- A.

In this O.A filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 20.07.1991 (Annexure- I) by which the applicant was put off ~~from~~^h duty and he has prayed ^{that h} the order dated 20.07.1991 be quashed with direction to respondent No. 2 to reinstate the applicant in service as Branch Post Master.

2. The facts, in short, are that the applicant worked continuously as E.D.D.A w.e.f 1961 to May, 1967 and thereafter as E.D.B.P.M, Maigadhar from June 1967 to 19.07.1991. The applicant was put off duty vide impugned order dated 20.07.1991. The applicant was involved in a criminal case No. 971/90 under section 326 and 457 I.P.C and he was convicted to under~~go~~ two years Rigorous Imprisonment (RI)

[Signature]

and further fine of Rs. 1000/-, in default to undergo three months RI/ ^{and} under section 326 IPC three years R.I and fine of Rs. 1000/-, in default to three months R.I. The Session Judge, Tehari in ~~the~~ Criminal Appeal No. 09 of 1991 partly allowed the conviction under section 457 IPC. The applicant filed appeal before the Session Judge, Tehari who passed the following order on 23.01.1992:-

"The appeal is partly allowed. ^{Conviction} of appellant under section 457 IPC is maintained and the sentence is reduced to the extent that he shall undergo imprisonment already undergone by him and pay a fine of Rs. 1000/-, in default to undergo three months RI. The conviction passed by the learned Magistrate under section 326 IPC is altered against Govind Ram to one under section 324 IPC and he is convicted and sentenced to imprisonment already undergone by him and pay a fine of Rs. 2000/-, in default to undergo 6 months RI under section 324 IPC...."

3. The applicant filed criminal revision before the Hon'ble High Court of Judicature at Allahabad. The Hon'ble High Court on 02.04.1992 passed the following order :-


"Heard.

Admit.

Till further orders the operation of the judgment and order dated 23.01.1992 passed by the Sessions Judge, Tehri Garhwal in Criminal Appeal No. 9 of 1991 shall remain stayed."

4. The main contention of learned counsel for the applicant is that in view of the order of Hon'ble High Court dated 02.04.1992 the applicant is entitled for re-engagement and should be taken back on duty.

5. Opposing the claim of the applicant Sri G.R. Gupta, learned counsel for the respondents submitted that the action of the respondents is justified and legal because the applicant has not been acquitted in the criminal case and no interference is warranted.




6. Learned counsel for the respondents further submitted that until^{it} unless the conviction order is finalised or set-aside, it cannot be held that the applicant has been acquitted of the criminal charges.

7. We have heard counsel for the parties, considered their submissions and perused records.

8. Admittedly, the case of the applicant has still not been decided in the criminal revision by the Hon'ble High Court and also no stay order exists in regard to termination of the applicant. The learned counsel for the applicant filed before us an order of respondent No. 2 dated 13.08.1991 by which the services of the applicant have been terminated under rule 8 of EDA (Conduct and Service) Rules, 1964 on the ground of conviction of the applicant by the Trial Court. Copy of the same is taken on record.

9. This O.A was filed on 21.04.1994 and the termination order was very much in existence on that date which has not been challenged in the present O.A at all. The applicant has only challenged the put off duty order. As far as this O.A is concerned with the issuance of the order dated 13.08.1991, the put off duty order dated 20.07.1991 merges with it. The applicant ought to have challenged this order, if he was aggrieved. Since the termination order dated 13.08.1991 has not been challenged, this O.A is mis-conceived and, therefore, is liable to be dismissed.

10. However, since the applicant's criminal revision is still pending, he is given liberty to file a representation before the respondent No. 2, in case the criminal revision is decided in his favour. In the

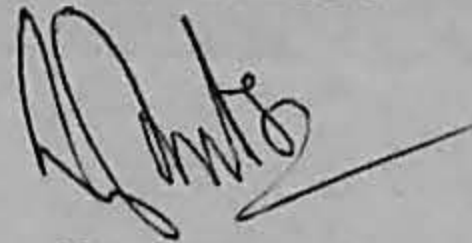


facts and circumstances, it calls for no interference at this stage. The O.A is dismissed.

11. There will be no order as to costs.



Member- J.



Member- A.

/Anand/