

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 9TH DAY OF AUGUST, 2000

Original Application No.693 of 1995

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Kuldeep Singh, Son of Shri Sheo
Bhagat Singh, R/o 144, Shivpuri,
General Wing, Prem Nagar,
Dehradun.

.... Applicant

(By Adv: Shri R.Dobhal)

Versus

1. Union of India through its Sainik Prashikshan Mahanideshalaya General Staff Shakha, Sena Mukhyalaya, new Delhi.
2. Indian Military Academy, Dehradun through its Commandant.
3. The Vice Chief of Army Staff
4. General Staff Branch(M.I.-II), Army Head Quarter, G.H.Q, P.O. New Delhi-II (The Disciplinary Authority)

.... Respondents

(By Adv: Km.Sadhna Srivastava)

O R D E R(Oral)

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

This application has been filed challenging order dated 24.2.1986 by which the applicant was dismissed from service Under Rule 19(ii) of Central Civil Services(CCA) Rules 1965. The applicant was serving as a Civil M.T.Driver.

Km.Sadhna Srivastava submitted that application is highly time barred as it was filed on 5.7.1995 challenging the order dated 24.2.1986. Shri Dobhal, on the other hand submitted that immediately after passing of the order applicant represented before the authorities and challenged the order but by letter dated 7.6.98(Annexure A3) he was informed that until the criminal case ^{is} pending against the applicant ^{and} not ^{is} decided by the court, his application shall not be

considered for giving relief. It is submitted that on receipt of this letter the applicant was pursuing his cases in criminal court and made application for reinstatement after being acquitted in all the criminal cases. Considering the aforesaid facts and circumstances we are satisfied that there is no delay in filing the application as the applicant was given understanding that his matters shall be considered after decision in criminal cases by the court. In any view of the matter the delay in the aforesaid peculiar facts and circumstances deserves to be condoned. The delay is accordingly condoned.

Now coming to the merits the learned counsel for the applicant has submitted that the order dated 24.2.1986 is wholly untenable and was passed in clear violation of the principles of natural justice. learned counsel has submitted that no inquiry was held before dismissing the applicant from service and no reasons were recorded in writing that it was not reasonably practicable to hold an inquiry in the manner provided in the Rules.

Km.Sadhna Srivastava, on the other hand, submitted that the reasons have been recorded in the impugned order, in para 2 and the order does not suffer from any illegality.

We have carefully considered the submissions of the learned counsel for the parties. However, in our opinion, the provisions of Rule 19 of CCS(CCA) Rules, 1965 have not been observed while passing the order dated 24.2.1986. At this stage it shall be appropriate to reproduce the entire order dated 24.2.1986.

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Telephone IMA/250

Bharatiya Sainya Academy

Indian military Academy

Dehradun

24th Feb., 1986

097805/MT/KS/EST(Civ-3)

MT-1314 Sri Kuldeep Singh

Civ MT Driver

Wing No.3, BK No15/9

PO Prem Nagar,

District Dehradun

ORDER

1. WHEREAS, MT-1314 Sri Kuldeep Singh Civ MT Driver has been arrested on 23 Jan., 1986 on a Criminal Charge Under Sec.393 IPC(Case/Mukadma No.64/86), Sec.392 IPC(Case/Mukadma No.138/85) for Bank Robbery and Section 3(1) U.P. Gang Organisation and Anti Social Activities (Particulars Ordinance, 1986).
2. AND WHEREAS, the said Sri kuldeep Singh has been confined in District Jail, Dehradun with effect from 24 January, 1986 under the Sections reflected in para 1 above and is awaiting Trial for various criminal charges/ Bank-robberies.
3. NOW, THERE FOR IN Exercise of the powers conferred by Rule 19(ii) of the Central Civil Services (Classification, Control and Appeal) Rule-1965, the undersigned hereby dismisses the said Sri Kuldeep Singh from service w.e.f 23 January, 1986, which shall ordinarily be a disqualification for future employment under the government.

sd/-illegible

(BB SEHGAL)

Lt.Gen.

Commandant


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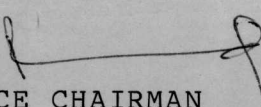
TRUE COPY

From perusal of the order it is clear that the punishing authority failed to record any reason what so ever as to how it was not reasonably practicable to hold an inquiry in the manner provided in the rules. He has only stated that the applicant Kuldeep Singh has been confined in district jail w.e.f 24.1.1986. The reasons mentioned in para 2, above that the applicant is involved in various criminal cases could be hardly a reason on the basis of which the disciplinary inquiry contemplated under Rules 14 to 18 could be dispensed with. The normal rule is that the Government servant shall not be dismissed, removed or reduced in rank except by an order passed in the disciplinary proceedings after giving him full opportunity of hearing and defending himself. As the order does not satisfy the provisions contained in Rule 19(ii) of the Rules it cannot be sustained. The applicant is thus entitled for relief.

The learned counsel for the applicant insisted that the applicant has been acquitted in all the three criminal cases mentioned in the impugned order. however, Km.Sadhna Srivastava on the other hand, submitted that though the applicant has been acquitted in two criminal cases, but there is doubt as to whether he was acquitted in case crime no.64/86 U/s 393 IPC. In our opinion, we are not required to detain ourself for giving finding on this question. It can be left for the authorities to ascertain on production of the certified copies of the orders of criminal court as to whether applicant has been acquitted in all cases or not.

For the reasons stated above, this application is allowed. The order dated 24.2.1986(Annexure A-1) is quashed. The applicant shall be reinstated on the post with continuity in service. However, considering the fact that he was involved in criminal cases, he will not be entitled to back wages. There will be no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 9th August, 2000

Uv/