

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Date: This the 2nd day of FEBRUARY 2006.

Original Application No. 209 of 2000.

Hon'ble Mr. K.B.S. Rajan, Member (J)
Hon'ble Mr. A.K. Singh, Member (A)

Prabhu Nath, Ex Sub-Post Master,
(HSG-II) Mahmoorganj, Varanasi.
R/o Mohalla Betia Hata South,
Post Office Shivpuri, Nai Colony,
Gorakhpur.

.....Applicant

By Adv: Sri M.D. Mishra & Sri R.P. Singh

V E R S U S

1. Union of India through its Secretary,
Post and Telegraph Department, Govt. of India,
NEW DELHI.
2. Additional Post Master General,
ALLAHABAD.
3. Superintendent of Post Offices,
VARANASI WEST.

.....Respondents

By Adv: Sri A. Sthalekar

O R D E R

By K.B.S. Rajan, JM

For Applicant: Sri M.D. Mishra & Sri R.P. Singh
(absent)

For Respondents: Sri S.K. Pandey for Sri A.
Sthalekar

In the absence by the applicant either in
person or through his counsel the case is taken up

for hearing under Rule 15 (1) of the CAT (Procedure) Rules 1987.

2. Briefly, on an identical charge of alleged embezzlement from the SB account, the applicant was proceeded both departmentally as well as in the criminal court. The departmental proceeding culminated into a penalty of reduction by two stages (from Rs. 2000 to 1900) in the pay scale of Rs. 1600-2660 for a period of two years and that the applicant would not earn yearly increment during the period the pay was reduced. Order dated 24.8.88 read with 20.1.89 refers. Subsequently the applicant's pay was restored after the currency of penalty.

3. The applicant thereafter superannuated on.

4. The criminal proceedings against the charge of embezzlement resulted in the acquittal of the applicant as the prosecution failed to prove the case beyond reasonable doubt and the court had held that it would not be appropriate to punish the applicant under such circumstances.

5. The applicant has now prayed for treating the period of suspension from 18.7.1985 to 18.9.85 as on duty for all purposes and for quashing of the order dated 20.1.189 passed by respondent no. 2 and for a direction to the respondents to treat the applicant as promoted to the next cadre w.e.f. his juniors Sri

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Ramesh Chandra Srivastava and Sri T.D. Lal were promoted and also for re-fixation of his pay and pension gratuity etc and payment of arrears thereof. In addition a sum of Rs. 7175.55/- deposited by the applicant is also sought to be refunded with interest.

6. The respondents' counsel has taken us through the entire counter and submitted that the criminal proceedings are on a different footing compared to the departmental proceedings. However, from the perusal of documents we do not find any material to distinguish the charges in the two cases. As such once the criminal court has acquitted the applicant, on his representation the respondents ought to have reviewed the penalty order and worked out the pay and allowances paid to the applicant as if no penalty proceedings were initiated.

7. In the result the OA is allowed. The order dated 24.8.88 and 20.1.89 are quashed and set aside. It is declared that the applicant is entitled to full pay during the period of suspension and is also entitled to his pay and allowance without any reduction. The respondents are directed to re-fix the pay of the applicant from 1988 onwards and work out the amounts payable to the applicant on this score and pay the same to the applicant. They shall also rework out the pension and terminal benefits on the basis of the revised pay. The respondents shall

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also refund the amount of Rs. 7175.55 recovered from the applicant with interest at the rate of 6% from the date of recovery till the date of refund. The entire exercise shall be completed within a period of 6 months from the date of communication of this order. No cost.

Member (A)

Member (J)

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