

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD**

**Original Application No. 396 of 2000**

Allahabad this the 7<sup>th</sup> day of December, 2004

**Hon'ble Mr. M.P. Singh, Vice Chairman**  
**Hon'ble Mr. A.K. Bhatnagar, Member (J)**

Kedar Singh S/o Saraju Singh, r/o Village Taranpur P.O. Khuripaka,  
District Ballia.

Applicant

By Advocate Shri K.S. Rathore

Versus

1. Union of India through Postmaster General, Lucknow.
2. Post Master H.S.G.I. Head Post Office, Ballia.

Respondents

By Advocates Shri Saumitra Singh  
Shri S.N. Misra for Shri Rajeev Sharma

**ORDER**

**By Hon'ble Mr.A.K. Bhatnagar, Member(J)**

By this O.A. applicant has prayed for following reliefs:-

- a) A writ or certiorari quashing the order dt. 6.9.99 and 22.8.96(annexure A-1, A-2) so far as differences of salary is concerned during suspension period since 27.10.1977 to 22.08.1996;



- b) A writ of mandamus to direct the respondents to pay the differences of salary during suspension period since 27.10.1977 to 22.08.1996 with 18% interest p.a.

2. The brief facts giving rise to this O.A., as per the applicant, are that the applicant was working as E.D. Stamp Vendor in Head Post Office Ballia. He was suspended on 27.10.1977 on account of identification of one Rishi Deo Pandey in respect of payment of Ten Years' of N.S.C. no. IONS/F 553789 of Rupees One thousand dated 25.04.1968 registration no.494, who had already withdrawn the money on 23.10.1976. On the same date, an F.I.R. under Section 409 I.P.C. was registered against the applicant and also a criminal case was initiated on 22.08.1984 under Section 420/468 I.P.C. As per the applicant both the criminal cases were tried by the Chief Judicial Magistrate Ballia, which ultimately <sup>led</sup> ~~lead~~ to acquittal of the ~~accused~~ in both the cases. Vide Judgment dated 02.02.1985 the applicant got acquitted from the Court of Chief Judicial Magistrate, Ballia in case no.464 of 1981. The applicant also got acquitted in another criminal case no.256 of 1984 vide order dated 13.12.1995.

3. Simultaneously a charge sheet was also served on the applicant on 20.08.1992. The Inquiry Officer was appointed and the departmental proceedings were conducted against the applicant. The disciplinary authority after considering the inquiry report and the available record before him and the Judgment passed by the Chief Judicial Magistrate in both the case, has exonerated the applicant on 22.08.1996 (annexure A-2) from departmental proceedings and reinstated him with minor punishment of Censure. The grievance of the applicant is that he was kept on suspension since 27.10.1977 to 22.08.1996 withholding difference of 50% salary of suspension period i.e. from 27.10.1977 to 22.08.1996 illegally. The applicant has filed a representation dated 13.09.1999 in response to the show cause asked by the respondents through letter dated 06.09.1999 but no response has been given by the respondents. Hence he filed this O.A.

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4. Learned counsel for the applicant submitted that although the applicant had been acquitted in both the criminal cases filed against the applicant and he has been exonerated and reinstated with minor punishment i.e. Censure but no payment of suspension period was given to him. He further submitted that applicant had not given any opportunity of hearing prior with holding the differences of salary during suspension period. It is further submitted by the learned counsel that the applicant had been suspended for no fault of his therefore, he is entitled for the differences of salary during his suspension period since 27.10.1977 to 09.09.1996 with interest.

5. Resisting the claim of the applicant, the respondents have filed counter affidavit. Learned counsel for the respondents inviting our attention to paragraph no.11 and 13 of the counter affidavit, submitted that the applicant was not suspended but was put off duty under Rule 9 of E.D.A.(Conduct and Service) Rules, 1964 and was awarded with punishment of Censure after conclusion of the inquiry. The applicant was put off duty from 27.10.1977 to 22.08.1996 and he joined the post on 09.09.1996. It is submitted by the learned counsel that since the applicant was not exonerated from the charges leveled against him and was awarded with the punishment of Censure, therefore, he is not entitled to any allowances for the period he was put off duty. The applicant was also informed about this fact. In view of the facts mentioned in the counter affidavit, the respondents have claimed that the applicant is not entitled for any relief and O.A. is liable to be dismissed.

6. We have heard the learned counsel for the parties and perused the record.


7. It is an admitted fact that the applicant was acquitted in both the criminal cases by the Chief Judicial Magistrate vide Judgments dated

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02.02.1985 and 13.12.1995. It is also not disputed that the applicant was served with a charge sheet under Rule 8 of E.D.A.(Conduct and Service) Rules, 1964 vide memo dated 20.08.1992 and a punishment of Censure was given to the applicant. We have also gone through annexureA-1 dated 06.09.1999 in which it is stated that the applicant has been given Censure vide memo dated 22.08.1996. By the same letter applicant was asked to show cause within 7 days why this period be not treated as put off duty. As per the applicant he has filed a representation on 13.09.1999(AnnexureA-5) within the stipulated period given in annexureA-1. The respondents have not controverted this fact in their C.A. that applicant has filed a representation on 13.09.1999. It is also not contended by the respondents that they have decided the same.

8. Under the above facts and circumstances and after careful consideration of the rival contentions of both the parties counsel, we are of the view that interest of justice shall better be served if we direct the respondent no.2/competent authority in the respondents establishment, to decide the reply/representation dated 13.09.1999, which is still lying undecided, of the applicant within the time framed by this Tribunal. Accordingly we direct the respondent no.2 to decide the reply/representation dated 13.09.1999 of the applicant as per prevailing rules on the subject <sup>by a reasoned and speaking order</sup> within a period of two months from the date of receipt of a copy of this order. The applicant will be at liberty to file a fresh representation along with a copy of this order for early decision of the case. With these directions, O.A. stands disposed of. No order as to costs.

  
Member (J)

  
Vice Chairman

/M.M./