

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 8TH DAY OF MARCH, 2002

Misc. application no.883 of 2002

In

Diary No. 814 of 2002 (OA.273/02)

CORAM:

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

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Gulab Chand, son of Shri Balram
S.D.M.P. Boundeeh Madhuban,
District Mau.

... Applicant

(By Adv: Shri D.S.Singh)

versus

1. Union of India through the Secretary
Ministry of Communication,
New Delhi.
2. Post Master General, Gorakhpur
Parimandal, Gorakhpur, U.P.
3. Pravar Adhikshak Dak, Azamgarh Mandal
Azamgarh
4. Sahayak Adhikshak Dakghar
Mau Upmandal, Mau

... Respondents

(By Adv: shri R.C.Joshi)

O R D E R(Oral)

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

The applicant has challenged the order dated 31.12.1998 (Annexure 3) by which he was dismissed from service on account of his conviction and sentence in criminal case in Session Trial No.65/96(Crime No.205/94) u/s 363/366/368/370 and 120-D I.P.C State Vs. Ram vilas and others. In the aforesaid session trial applicant was convicted and was sentenced for four years Rigorous Imprisonment vide order dated 3.9.1998. The Disciplinary Authority gave a show cause notice to the applicant as

to why he may not be dismissed from service. The applicant submitted his explanation saying that he has filed appeal before Hon'ble High court in which he has been released on bail and sentence has been suspended. The Disciplinary Authority, however took the view that merely because the applicant has been released on bail and sentence has been suspended conviction of the applicant is not wiped off. He also took the view that applicant had already served part of sentence from 3.9.1998 to 15.9.1998. On the aforesaid reasons Disciplinary Authority dismissed the applicant from service. Against the order of the Disciplinary Authority applicant filed an appeal which has been dismissed on 21.7.1999(Annexure 4). Aggrieved by the aforesaid orders applicant has approached this Tribunal by filing this OA on 14.2.2002.

The office report shows that the OA is time barred. The applicant filed M.A. 883/02 praying for condoning the delay. It has been stated in the affidavit that applicant engaged Smt. Sushila Singh advocate on 10.7.2000 and handed over the papers and expenses for challenging the order but the orders were not challenged. When the applicant tried to contact he found that Smt. Sushila Singh advocate has died, then applicant engaged the present counsel Shri D.S. Singh and filed this OA.

Considering the facts and circumstances narrated above in our opinion delay has been sufficiently explained and the same is condoned. Officer^{is} to register the OA^{and} number.

We have heard counsel for the parties on merits. It is not disputed that the applicant has been convicted for a



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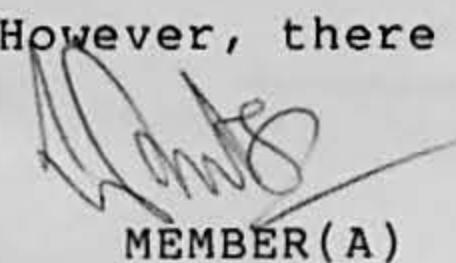
serious offences u/ss 363/366/368 and 370 I.P.C.

The conviction has not yet been set aside by any court.

Hon'ble Supreme Court in a case The Deputy Director
Collegiate Education Vs. Sri S.Nagoor Meera, Judgment

Today 1995(3) S.C.-32 has clearly held that mere suspension
and sentence does not effect the conviction already awarded
hence the order of the Disciplinary Authority as well as
the Appellate Authority is justified and does not suffer
from any error of law. The applicant is not entitled for
any relief at this stage. However, in case he is acquitted from
High court he may approach the Appellate Authority again
and pray for relief.

Subject to aforesaid observation, the OA is accordingly
dismissed. However, there will be no order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 8th March, 2002

UV/