

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 907 of 2002

Allahabad this the 11th day of December, 2002

Hon'ble Mr.Govindan S. Tampi, Member (A)  
Hon'ble Mr.A.K. Bhatnagar, Member (J)

Raj Narayan, Son of Late Shri Chetan Prasad, resident  
of Tandon Colony, Bathua, Mirzapur.

Applicant

By Advocate Shri A.P. Singh

Versus

1. Union of India through the Secretary, Ministry  
of Communication, Post and Telegraph, New Delhi.
2. Chief Post Master General, U.P. Circle, Lucknow.
3. Post Master General, Allahabad.
4. Senior Superintendent, Railway Mail Service 'A'  
Division, Allahabad.

Respondents

By Advocate Shri G.R. Gupta

O R D E R ( Oral )

By Hon'ble Mr.Govindan S. Tampi, Member (A)

In this O.A., the applicant seeks to  
challenge the orders of the Department 02.09.97 and  
13.06.2002 dismissing him from service and pleads  
that he be reinstated.

2. During the oral submissions before us,  
Shri A.P. Singh represented the applicant and  
Shri G.R. Gupta represented the respondents.

3. In this case, the applicant who has been working as Sorting Assistant in Railway Mail Service, was suspended for an alleged suspected involvement in a racket of payment of bogus heavy value money orders at Jamua, Choubepur. The proceedings were initiated against him both criminally and departmentally. In the Trial Court, he <sup>was</sup> imposed punishment of one year imprisonment with a fine of Rs.2000/- Simultaneously action was taken in the department where on account of Trial Court's decision he was dismissed from service on 28.02.97. Thereafter, the Trial Court's order was carried in appeal before the Learned District and Sessions Judge, who have acquitted the applicant with the following observations;

"आपराधिक अपील स्वीकार करते हुए निर्णय व आदेश दिनांक 29-1-1997 ई निरस्त किया जाता है तथा अभियुक्त को धारा 409, 420, 467 भाँ. दृ.सं. के आरोप से दोषमुक्त किया जाता है।"

*Following the above*  
*Therefore* the applicant approached the respondents once again and his representation has been disposed of by the impugned order dated 13.06.02 with the following observations;

"The Hon'ble Court of Session Judge, Varanasi has only admitted his criminal appeal and acquitted the Ex.official by quashing the order of learned lower court" and "As Shri Raj Narain has already been dismissed from the department for more than six years, it is not considered fit to be take<sup>n</sup> him again back in service."

4. Shri A.P. Singh appearing on behalf of the applicant points out that after <sup>he applied</sup> he has been honourably discharged from the criminal proceedings there was no ground whatsoever for the department to hold on the earlier punishment as the imposition of punishment of dismissal awarded to him was also on the same charge for the same offence. The O.A. should therefore, be allowed, is what Shri Singh pleads.

5. Shri G.R. Gupta, learned counsel for the respondents points out that the applicant who was dismissed from service, did not actually care to file the statutory appeal and has come up only after his acquittal. According to Shri Gupta, the findings recorded by Senior Superintendent that as the applicant was dismissed from service as back as on 1.3.97 he is not entitled to be taken again back in service, represented the correct position in law and did not warrant any interference by this Tribunal.

6. We have carefully deliberated the rival contentions and perused the record.

7. It is not disputed that the proceedings both criminally and departmentally were initiated against the applicant on the same offence following the Trial Court's order. <sup>imposing punishment as he applied he was dismissed from service</sup> It is thereafter that the Trial Court set aside the earlier order and the applicant was honourably discharged. The fact that the applicant did not seek remedy after his order of dismissal, would not come in the way of applicant getting the benefit

of the Judgment of Learned District and Sessions Judge, Varanasi, as he could not have got any benefit from the Department so long as the Trial Court's order was in force. The applicant was correct in approaching the respondents after he was honourably acquitted with the charges. The respondents cannot now take a view that as the applicant was dismissed from service six years back, he cannot be taken back in the service.

8. Shri A.P. Singh also prayed that as the applicant was kept out of service only on account of department's fault, he should be declared entitled for the backwages. We are not satisfied to grant this relief as this case is not a similar case to the case-Union of India and Others Vs. K.V. Jankiraman etc.A.I.R. 1991 S.C.2010.

9. In the above view of the matter, the O.A. succeeds and allowed. The respondents are directed to reinstate the applicant within a month from the date of receipt of this order. The applicant shall also be entitled for the seniority and notional fixation of pay with increments between the date of his dismissal and reinstatement. He will not however be entitled for any backwages for the period he was away from duty. No cost.

*A.J.*  
Member (J)

/M.M./

*A.Y.*  
Member (A)