

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD**

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(THIS THE <sup>21<sup>st</sup></sup>-----DAY of February, 2013)

**Hon'ble Mr. Shashi Prakash, Member (A)**

**Original Application No. 246 of 2007**  
(U/S 19, Administrative Tribunal Act, 1985)

Mukhtar Ali, T. No. 349/EM/Wireman (Highly Skilled),  
S/o Shri Sheikh Shakoor  
R/o G-II/251, Armapur Estate  
Kanpur.

..... Applicant

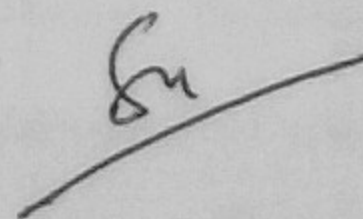
Present for Applicant : Shri S. P. Srivastava.

***Versus***

1. Union of India through Secretary,  
Ministry of Defence,  
Defence Production and Supply  
New Delhi.
2. Secretary  
Ordinance Factory Board  
10-A, S.K. Bose Road  
Kolkatta.
3. Senior General Manager  
Ordinance Factory,  
Kanpur.
4. Joint General Manager (Admn)  
Ordinance Factory, Kanpur.

..... Respondents

Present for Respondents : Shri Abhinav Tripathi





## ORDER

This O A has been instituted by the applicant for quashing the orders dated 10.01.2007 and 01.02.2007, issued by respondent No. 3.

It is seen from the impugned orders that the applicant was implicated in a Criminal Case under Section 342/323 IPC & section 3(1) (X) of SC/ST Act, registered with police station <sup>Armapur</sup> ~~Kalyanpur~~, Kanpur Nagar, as Case Crime No. 80/1996. The applicant was arrested and detained for more than 48 hours in police custody.

2. As per the respondents according to letter dated 16.06.1997 of the Superintendent of District Jail, Kanpur the applicant was detained in jail custody from 20.01.1997 (17:10 hours) till 22.01.1997 (19.10 Hrs.). Since, the detention period exceeded 48 hours, the applicant was placed under deemed suspension w.e.f. 20.01.1997. Subsequently, the applicant was exonerated in the criminal case by the judgment and order dated 21.08.2006 on the ground that the prosecution had failed to prove the case beyond reasonable doubt. Thereafter, applicant submitted a representation to the respondent No. 3 dated 23.8.2006 annexing a copy of the aforesaid judgment dated 21.8.2006, upon which, respondent No. 3 passed an order dated 26.10.2006 revoking his suspension order with immediate effect. On 08.12.2006, a show cause notice was issued to the applicant on the proposed decision of the department by which ~~he~~ <sup>he</sup> was informing him that while the benefit of pay and allowance during the period of his suspension has been granted but denying the benefit of increment, leave pension and gratuity and treating his suspension period as break in service. The applicant submitted his reply on 23.12.2006 contesting the proposed decision of the respondents and

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claiming all consequential benefits of allowances of his pay for that period. By orders dated 10.01.2007 and 01.2.2007 the respondents passed an order stating that consequent to the fact of acquittal of the applicant and keeping in view the contents of the representation submitted by the applicant, the department has come to the conclusion that the suspension of the applicant from the period 20.01.1997 to 26.10.2006 was not illegal but it was ordered that the period of his suspension would not be counted as on duty and that he would be entitled for only pay and allowances as admissible to him during that period. The suspension would not be treated as break in service. It was also clarified that the applicant would not be entitled to the benefit of increment, leave pension and gratuity etc.

3. Learned counsel for the applicant argued that the decision of respondent No. 3 communicated by the orders dated 10.01.2007 and 01.02.2007 is patently illegal. Since the applicant was fully acquitted in the criminal case and no punishment had been imposed on him either in a criminal or departmental proceedings, the applicant is entitled to all the consequential benefits. He argued that in OA No. 514/2007, decided on 29.4.2009, involving identical set of facts and similar nature of orders impugned, the Tribunal has set aside the concerned orders and directed to treat the applicant as in service during period of deemed suspension along with all consequential benefits and the deemed suspension period not to be treated adverse to the interest of the applicant for any purpose whatsoever.

4. Keeping in view the facts of the case and foregoing orders of the O.A. it is very clear that the deemed suspension period has to be

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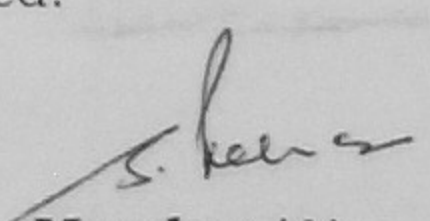
treated as a duty period and the benefits that would have accrued to the applicant as if he had been on duty during that period should be given. It is not for the respondents to decide as to what benefits are to be given and what benefits are not to be given.

5. In the case of *State of Punjab and others vs. Shambhu Nath Singla and Others, (1996) 1 Supreme Court Cases 296*, it has been clearly held that once an employee is reinstated after discharging by the criminal court and reinstated he is entitled to full salary and allowances for the period during which he was kept under suspension.

6. In view of this position the impugned orders dated 10.01.2007 and 01.02.2007 are clearly illegal and, therefore, set aside. The applicant shall be provided the benefit of increment, leave and counting of the suspension period for the purpose of calculation of gratuity and pension. The direction of the Tribunal shall be implemented within a period of three months.

7. So far as the second relief which relates to granting of the salary of the post of highly skilled to the applicant is concerned, it is not maintainable on the ground that it is relief which is not in any way connected or consequential to the first relief. It altogether relates to separate cause of action. Hence, it is not maintainable as under Rule 10 of the CAT procedure Rule, 1997 multiple relief(s) cannot be sought in a single OA.

8. With the above observation, O.A. is partly allowed.

  
Member (A)

Shashi



Correction Appl 1348/2013  
in  
In OA 246/2007

22.03.2013

Hon'ble Mr. Shashi Prakash, AM

Sri S. P. Srivastava, counsel for the applicant stated that he filed Correction Application No. 1348/2013 for substituting the word Armapur in place of Kalyanpur in line 5 of para 1. Application allowed. The necessary correction has been made. Necessary correction may also be made in the pleadings.

Copy of the order may be given to the parties counsel.

AM

*Shashi*