

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

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DATE OF ORDER : 7TH APRIL, 1999.

1. O.A.NO. 219/1997
2. M.A.NO. 108/1997  
(OA NO. 219/1997)

Khinwa Ram Prajapat S/o Shri Nathu Ram Prajapat Resident of Nirala  
Bas, Post Rajeldesser, District Churu (Raj).

(Worked as Chowkidar under AEN, PNT Civil Sub Division - Bikaner).

Mr. B.N. Calla, Adv., for applicant.

.....APPLICANT

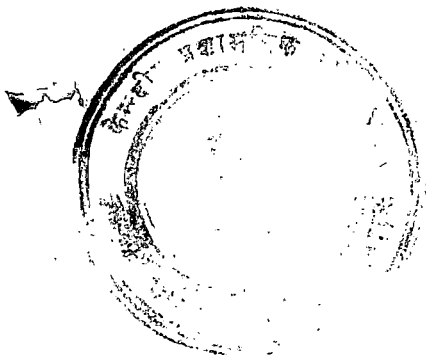
V E R S U S

1. Union of India through Secretary, Telecommunication, Sanchar  
Bhawan, New Delhi.
2. Superintending Engineer, Telecom Civil Circle, C Scheme,  
Jammalal Bajaj Marg, Jaipur.
3. Executive Engineer, Civil Division (Postal), PNT, Jaipur.
4. Assistant Engineer, Postal, Civil Sub Division, Bikaner.

.....RESPONDENTS

Mr. K.S. Nahar, Adv., for respondents No. 1 & 2.  
None present for other respondents.

CORAM



HON'BLE A.K.MISRA, JUDICIAL MEMBER

HON'BLE N.P.NAWANI, ADMINISTRATIVE MEMBER

ORDER

(PER MR. A.K.MISRA)

The applicant has filed this Application with the  
prayer that applicant be taken back on duty with immediate effect,  
the applicant be assigned proper seniority and should be given all  
benefits.

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2. Notice of the Original Application was given to the respondents who have filed their reply in which it is stated that applicant is not entitled to any relief. The applicant was compulsorily retired from service as a measure of punishment long back. He cannot claim his re-instatement on the basis of acquittal in the criminal case. The Original Application deserves to be dismissed.

3. We have heard the learned counsels for the parties and gone through the case file.

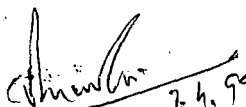
3. The applicant was appointed on 7.9.1979 on the post of Chowkidar by the order of Executive Engineer, Civil Division, PNT, Jaipur. While the applicant was so working 542 Bags of Cement were taken away by opening the lock from the PNT Stores situated at Junagarh Fort. A case under Section 380 and 454 I.P.C. was registered against the applicant. The applicant was suspended as per the rules and a disciplinary inquiry was conducted against him. Thereafter, vide its order dated 27.8.1987, the Superintending Engineer, Telecom, Civil Circle, Jaipur, punished the applicant for the charges levelled against him and ordered his compulsory retirement. At that time, the criminal proceedings were going on against the applicant. As against the order of the Disciplinary Authority retiring the applicant compulsorily from service, the applicant preferred no departmental appeal to the Appellate Authority and also did not exhaust departmental remedies as provided under the rules. Thus, the order of compulsory retirement as against the applicant has become final. Subsequently, the applicant who was facing a criminal charge in a Criminal Court, was acquitted vide Court's order dated 7.12.1990. It is on this basis that applicant is claiming his re-instatement but in our view the departmental action against the applicant has become final and he cannot claim re-instatement on the basis of his acquittal by a criminal court. If for one reason or the other, applicant thought

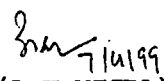
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that departmental inquiry and punishment order were not in accordance with rules, he should have preferred departmental remedies as per rules but the applicant failed to avail such remedy as provided by the rules in such cases. The applicant, therefore, cannot claim any relief in the instant case and his acquittal in a criminal case for which he was departmentally punished, cannot come to his rescue for his re-instatement into service. The Original Application, therefore, deserves to be dismissed.

4. We have also considered the point of delay as was raised in M.A.No. 108 of 1997. In our view, the Original Application filed by the applicant is hopelessly time barred. As against his compulsory retirement order passed in the year 1987, he preferred no remedial action either in the department or before the Court in time. The applicant filed a Writ Petition in the year 1994 before the Hon'ble High Court seeking a relief against the punishment of compulsory retirement which was passed in 1987. This Writ Petition was dismissed by the Hon'ble High Court as not maintainable vide its order dated 15.1.1997. But, there is nothing on record to explain the delay for not instituting the case since 1987 till 1994. The Administrative Tribunal's Act, 1985, came in force in 1985, therefore, applicant's preferring remedy before Hon'ble High Court in the year 1994, cannot be treated to be a bonafide action and this fact also does not help the applicant for condoning the delay. In our opinion, the Original Application is time barred as there is no sufficient ground for condoning the delay. The Misc.Application is, therefore, dismissed.

5. The Original Application is, therefore, dismissed and the parties are left to bear their own costs.

  
(N.P.NAWANI)  
ADMV.MEMBER

  
(A.K MISRA)  
JUDL.MEMBER

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Copy of order  
sent to Counsel for  
PET & Counsel for pers  
by Regid. <sup>ATD</sup> RZ to 128

vide <sup>ds</sup>  
dt. 15-4-99  
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15/4/99

Part II and III destroyed  
in my presence on 15-4-99  
under the supervision of  
section officer (1) [Signature]  
order dated 15-4-99  
Section officer (Records)

[Signature]  
A.D. attached  
in original file  
15/4/99