

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order :03.8.2001

1. O.A. No. 189/2001
w i t h
2. M.A. No. 134/2001
i n
O.A. No. 189/2001

Poosa Ram son of Shri Rakha Ram aged about 56 years, Gang No. 8, Marwar Balia (Deedwana), Jodhpur Division, at present residing at Balia Station, C/o. Station Master, Marwar Baliya.

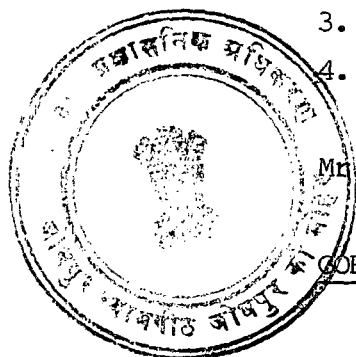
... Applicant.

v e r s u s

1. Union of India through General Manager, Head Quarters Office, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Jodhpur.
3. Divisional Superintending Engineer, Northern Railway, Jodhpur.
4. Assistant Engineer, Northern Railway, Railway Station , Degana.

...RESPONDENTS.

Mr. N.K. Khandelwal, Counsel for the applicant.



GORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondents to intimate the applicant about the fate of his employment, with a further direction to take the applicant on duty, if he has not attained the age of superannuation, and if he attained the age of superannuation, an appropriate direction be issued to grant him pension/compassionate grant etc.

(Handwritten signature)

7/7

2. The applicant contended that he was prosecuted before the Criminal Court for the offence under Sections 302 and 404 IPC, alleging that the applicant committed a murder of one Shri Tilokaram, Mate, Gang No.8, who was found dead on 23.03.1972 in the Railway Quarter at about 6.50 a.m. On holding the trial, in Sessions Case No. 53/72, the learned Sessions Judge, Merta, vide judgement and order dated 31.01.73, acquitted the applicant for the offence under Sections 302 and 403, and convicted him for the offence under Section 323 IPC by awarding a sentence to undergo six months rigorous imprisonment. The applicant preferred an appeal before Hon'ble High Court of Rajasthan, and vide judgement and order dated 29.07.98 (Annexure A/2), Hon'ble High Court dismissed the appeal by giving the applicant benefit under Section 4 of the Probation of Offenders Act read with Section 360 of the Code of Criminal Procedure. Thereafter, the applicant did not know anything from the respondents regarding his service. It is the contention of the applicant that since he has been given benefit under Section 4 of the Probation of Offenders Act, the conviction of the applicant under Section 323 IPC being minor punishment, he is entitled to reinstatement, and if he has already attained the age of superannuation, he would be entitled to pension/compassionate grant. Therefore, the applicant prays that there should be a direction in this behalf. The applicant also has filed a Misc. Application No. 134/2001 for condonation of delay.




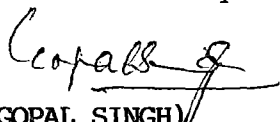
3. Heard and perused the records.

4. Both from the judgements as well as the arguments addressed at the Bar, it is clear that the applicant was convicted under Section 323 IPC by the learned Sessions Judge, Merta, by directing him to undergo six months rigorous imprisonment. The said order of the Sessions Judge

ASL

was passed on 31.01.1973, and that order of the Sessions Judge has been confirmed by the Hon'ble High Court of Rajasthan vide judgement dated 29.07.78. Givig benefit under Section 4 of the Probation of Offenders Act read with Section 360 of the Code of Criminal Procedure does not take away the conviction. Moreover, the order of the High Court itself says that the conviction is confirmed. Now the applicant has approached this Tribunal nearly after 23 years. The applicant contended in this application that nothing is heard from the department regarding his service. But the applicant did not agitate the matter for nearly 23 years for the reasons best known to him. His specific averment in this application is that nothing is heard from the department as to his service. But the department gave an endorsement dated 10.7.2001 (Annexure A/7) to the legal notice issued to them, stating that the applicant has already been communicated vide letter dated 30.03.1978. He has not produced the said letter dated 30.03.78 before us. From this, it further follows that the applicant has suppressed the letter dated 30.03.1978 in order to claim some relief at the hands of this Tribunal. In all probability, the applicant has been dismissed from service vide order dated 30.03.1978. Had he produced the said letter, in our considered opinion, perhaps it would have gone against him. Thus, from the last communication dated 30.03.1978, this application is hopelessly barred by time. The applicant also has not explained the delay of these 23 years on the basis of any cogent reason or cause. The application for condonation of delay is very vague and it does not explain any sufficient cause. When a person is dismissed from service on the basis of conviction by the Criminal Court, he is not entitled to any pension or any other relief under the law of land. Therefore, it is not possible for this Tribunal to pass any kind of direction in favour of the applicant at this juncture. Accordingly, we pass the order as under:-

"Both the O.A. No. 189/2001 and the M.A. No. 134/2001 are hereby dismissed at the stage of admission."



(GOPAL SINGH)
Adm. Member
cvr.


(JUSTICE B.S. RAIKOTE)
Vice Chairman

copy of order with OA & MA with its Annex
Sent to R1 to R4 vide no 333 to 336
dt 10/8/2007

Part II and III destroyed
in my presence on 17.5.2007
under the supervision of
section officer [] as per
order dated 13/3/2007
Nagari
Section officer (Record)

R/R
ad / 9/10
AD Received from R2 & R3
R-1 written
Dr / 24/8