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**CENTRAL ADMINISTRATIVE TRIBUNAL,  
JODHPUR BENCH, JODHPUR**

**ORIGINAL APPLICATION NO.242/2008**

Date of Order: 26.08.2010

**HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER  
HON'BLE Mr. V.K. KAPOOR, ADMINISTRATIVE MEMBER**

Vishnu Dutt Joshi S/o Shri Mangilal Joshi, aged 41 years, B/c Brahmin, R/o Setha Ram ji Ka Chowk-Ke-Pass, High School Road, Mathania, Tehsil Osian, District Jodhpur. Previously working as Peon in Tiddi Department, Near Dauji ki Hotel, Opposite Electric Department, Basni, Jodhpur.

....Applicant

Mr. Mahipal Rajpurohit, counsel for applicant.

**VERSUS**

1. Union of India, through the Secretary, Ministry of Agriculture, Department of Agriculture & Corporation, Krishi Bhawan, New Delhi.
2. The Director, Directorate of Plant Protection, Quarantine & Storage, N.H.-IV, Faridabad (Haryana).
3. The Deputy Director, Tiddi Information Organization, Air Force Road, Opp. Sati Mata Mandir, Near Panch Batti Circle, Jodhpur.
4. The Transport Engineer, Tiddi Department, Near Dauji Ki Hotel, Opposite Electric Department, Basni, Jodhpur.

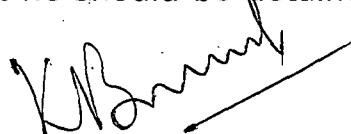
.....Respondents

Mr. K.D.S. Charan, proxy counsel for  
Mr. Kuldeep Mathur, counsel for respondents.

**ORDER (ORAL)**

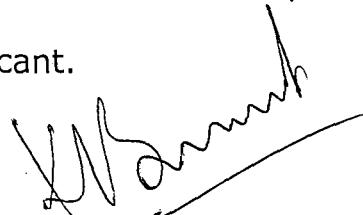
**(Per Hon'ble Dr. K.B. Suresh, Judicial Member)**

Applicant was an accused in a murder case. The learned Trial Court convicted him for committing murder u/s 320 IPC. On appeal, the Hon'ble High Court acquitted him of the murder charge on the ground that he is entitled to protection under Section 84 of the Indian Penal Code. However, the Hon'ble High Court while acquitting the applicant opined that since he had committed the offence when he was of unsound mind, he should not be released but he should be detained in safe custody unless and until medical



opinion is obtained with regard to his state of health that he can take care of himself and immediately thereafter it is alleged that he has been cured of his mental disease and infirmity. The High Court vide judgment of 21.02.2004 acquitted him of the charges and immediately thereafter it would appear that a medical check up was conducted on 24.12.2004 and the medical board gave a certificate that the applicant was not found to be having any mental illness or unsoundness of mind. Apparently, thereafter he filed an OA No.86/2007. In the OA the applicant was given liberty to send a copy of the order directly to the respondents and the respondents have been directed that his case has to be considered within a period of three months. It would be appropriate that without expressing our opinion that while the applicant is guilty of committing offence he claimed the benefit available to people of unsound mind, it would appear that following his release in January, 2005, he had applied to the respondents to allow him to be reinstated in service in consequence. But it would appear that against the acquittal of the judgement of the Hon'ble High Court, the matter was taken up to the Supreme Court in SLP by the respondents and the Hon'ble Supreme Court has converted the same into Criminal Appeal No.1502 of 2005 vide 07.11.2005 which is still pending.

2. The respondents expressed their inability to re-employ the applicant keeping in mind the safety of public and environment of the office. The case of the applicant would have to be considered, keeping in mind the above factor. Therefore, we are of firm opinion that mere acquittal cannot be a ground to reinstate the applicant.

A handwritten signature in black ink, appearing to be a stylized form of the name 'Vishal'. It is written in a cursive, flowing style with a prominent, curved flourish at the end.

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3. Whatever be the grounds taken in the O.A., a heinous offence of murder which was committed by the applicant and the Court having found him to be factually guilty, we have no doubt that public safety and office environment has to be taken into account. The Hon'ble Apex Court judgments relating to even Bail under Section 439 Cr.P.C which point out that the importance of safety of the society has priority over a person's release into society. This is especially so of a person who had been convicted and sentenced and released on medical grounds only. The fear of the respondents is merited in facts and law. Therefore, the OA lacks merit and therefore it is dismissed. No order as to costs.

  
(V.K. KAPOOR)  
Administrative Member

  
(Dr. K.B. SURESH)  
Judicial Member

/Rss/

दिनांक ०१/०१/२०१६ के अधेशालुओं  
मेरी उपलब्धि अनुमति ११/२०१६  
को आग-२०१६ तक १००%  
अनुमति अदिवारी  
केन्द्रीय उत्तरायण अधिकारी  
जोधपुर नगरपाली, जोधपुर