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CENTRAL ADMINISTRATIVE TRIBUNAL JODHPUR BENCH, JODHPUR

Original Application No. 20/Jodhpur/2010.

Date of decision: 10.09.2012

CORAM :

HON'BLE MR. G. GEORGE PARACKEN JUDICIAL MEMBER
HON'BLE Mr. B.K.SINHA, ADMINISTRATIVE MEMBER

Kishore Dadhich S/o of Shri Ghisulal aged about 47 years, resident of 2/725, Kudi Bhagatasani, Housing Board, Basni, Jodhpur, at present employed on the post of JTO in the office of GMTD, Sirohi – 307001.

..... Applicant.

[By Mr. J.K.Mishra alongwith A.K.Kaushik, Advocates, for applicant]

Versus

1. Union of India through Secretary to the Government of India, Ministry of Communication and Info. Technology, Department of Telecom, Sanchar Bhawan, 20 Ashoka Road, New Delhi.
2. Member (Services) Telecom Commission, Ministry of Communication and Info. Technology, Department of Telecom, Room No. 915, Sanchar Bhawan, 20 Ashoka Road, New Delhi 110 117.
3. The Chief General Manager Telecommunications, BSNL, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur – 08.
4. Bharat Sanchar Nigam Limited, through its Chairman and Managing Director, Corporate Office, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi – 001.
5. General Manager Telecom District, Sirohi, BSNL, Sirohi.

..... Respondents

[By Mr. Niranjan Mathur proxy for Mr. Kuldeep Mathur, Advocate, for Respondents 1 and 2.]

[By Mr. Vijay Bishnoi, Advocate, for Respondents 3 to 5]

ORDER (Oral)

[PER HON'BLE MR. G. GEORGE PARACKEN]

The issue involved in this case is no more in dispute.

2. It is also not necessary for us to go into the entire factual matrix of the case. What is necessary to be recorded is that the applicant was convicted in Criminal case No. 12/98 vide order dated 22.12.1998 passed by the Special Judge, Additional Special Court

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C.B.I. cases under Section 7 of the Prevention of Corruption Act, 1988 and sentenced him for simple imprisonment for a period of six months with fine of Rs. 5000/- and in default, to further undergo one month's simple imprisonment. In the Criminal Appeal No. 08/99 filed by the applicant, the High Court of Judicature for Rajasthan at Jodhpur acquitted him, vide its order dated 30.07.2008. Thereafter, the respondents reinstated him in service vide the impugned order dated 1.4.2009. By the said order, the competent authority has stated that the order of dismissal in his case was set aside "with immediate effect."

3. The submission of the applicant is that his case should have been dealt with in accordance with the rule 19 of the CCS (CCA) Rules, 1965 and the Instructions issued thereunder by the Government of India from time to time. In this regard, he has relied upon the Government of India, Ministry of Home Affairs, O.M. No. F. 43/57/64-AVD (III) dated 29th November, 1966 as amended by the Department of Personnel O.M. No. 371/3/74-AVD (III), dated 19th September, 1975, according to which when an appeal/revision against the conviction succeeds and the Government servant is acquitted, the order imposing a penalty on him on the basis of conviction no longer stands and it has to be set aside unless the respondents do not proceed further to take the matter to a still higher court or to institute a departmental inquiry against the Government servant. In cases where the penalty imposed was dismissal, removal, or compulsory retirement from service, full pay and allowances will be paid from the date of acquittal to the date of rejoining duty and the period is counted as duty for all purposes and for the period of suspension, removal, dismissal to the date of

acquittal, the pay and allowances will be allowed as directed by the competent authority under FR 54 (2) or FR 54(3) and the period treated as duty or non-duty under FR 54 (4) or FR 54 (5), as the case may be.

4. It is seen that in this case, the respondents have not taken any decision as per the aforesaid instructions of Government of India. We, in the above facts and circumstances, direct the respondents to consider the case of the applicant accordingly, take decision and communicate the same to the applicant and all others concerned through appropriate orders within a period of two months from the date of receipt of a copy of this order. While taking the decision, they shall also consider all other related issues in the matter.

5. With the above directions, this O.A. is disposed of. There shall be no order as to costs.

(B.K.Sinha)
Administrative Member

(G.George Paracken)
Judicial Member

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