

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No. 556/2005

Friday, this the 22nd day of July, 2005.

CORAM :

HON'BLE Mr.K.V.SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE Mr. N. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.B.Aboosala
Keelabaliyam House, Amini, Lakshadweep
Upper Division Clerk cum Cashier
Directorate of Industries
Kavaratti : **Applicant**

(By Advocate Mr. P.K.Jose)

Versus

Administrator
Union Territory of Lakshadweep
Kavarathi : **Respondent**

(By Advocate Mr. Shafik M.A.)

The application having been heard on 22.07.2005, the Tribunal on the same day delivered the following :

ORDER

HON'BLE Mr. K.V. SACHIDANANDAN, JUDICIAL MEMBER

The applicant entered the service of Lakshadweep Administration as Lower Division Clerk on 06.06.1973. In 1989 he was appointed as Upper Division Clerk. The applicant was charge sheeted before the Chief Judicial Magistrate, Lakshadweep, Kavarathi Island in C.C.No.7/1991 for an offence under Section 409 of Indian Penal Code and was convicted by judgment dated 03.06.1992 against this judgment. Criminal Appeal No. 1/1992 was filed before the Sessions Court, Kozhikode. Against the decision Revision Petition No.768/1995 was filed before the Hon'ble High Court and the applicant was acquitted vide Annexure A-2 judgment dated 21.12.2004. The applicant content that since the Hon'ble High Court has acquitted him, he should be reinstated forthwith. He has also made representations Annexure A-3 dated 10.02.2005 and A-4 dated 11.05.2005.

2. Mr. P.K. Jose appeared for the applicant and Mr. Shafik, M.A appeared for respondent.

3. When the matter came up for hearing, the learned counsel for applicant has taken us to the decision of the Hon'ble High Court in Criminal R.P.No.768/1995 dated 21.12.2004 which states as under :

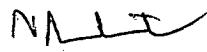
“ There is absolutely no case for the prosecution that the petitioner placed the cash in the office table after office hours on 20.02.1991 and before his arrest at 11.00 A.M on 21.02.1991. Even though the learned magistrate has observed that it was possible in the absence of such a case for the prosecution such a case cannot be made out by the Courts. The evidence could establish that the misappropriation of the cash was reported to the police by PW1 on the night of 20.02.1991 and on the forenoon of 21.02.1991 petitioner was arrested at 11.A.M by PW8. There is no evidence to prove that petitioner placed the cash at is office table after the office was closed on 20.02.1991 and before he was arrested on 21.02.1991. Therefore it can only be presume that the cash was available at office even earlier. If that be the case the question whether prosecution could allege that the petitioner misappropriated the said amount of Rs.6,687/-.”

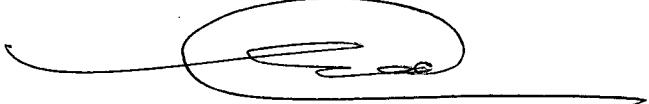
He was acquitted for want of evidence and he is entitled for reinstatement. Considering the fact that matter is pending before the 1st respondent, the applicant is permitted to make a comprehensive representation within a period of ten days.

4. In the interest of justice, we direct the 1st respondent to consider and dispose of the said representation proposed to be made by the applicant within ten days, with special reference to Annexure A-2 order, rules and instructions on the subject and pass an appropriate and speaking order and communicate the same within a time frame of two months from the receipt of such representation. .

5. The Original Application is disposed of at the admission stage itself. No order as to costs.

Dated, the 22nd July, 2005.


N. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


K.V.SACHIDANANDAN
JUDICIAL MEMBER