

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.NO.186/2000

Tuesday this the 14th day of March, 2000

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.N.Vijayan Nair,  
Retired Postal Assistant  
Vaikom Head Post Office,  
residing at Gouri (Thekkekodanthuruthil)  
Post T.V.Puram,  
Vaikom/686 606. ..Applicant

(By Advocate Mr.T.M. Raman Kartha)

Vs.

1. Union of India represented by the Secretary  
Ministry of Communications,  
Department of Posts, Dak Bhavan  
Sansad Marg, New Delhi-110 001.
2. The Postmaster General,  
Central Region,  
Kochi.16.
3. The Director of Postal Services,  
Central Region,  
Kochi.16.
4. The Senior Superintendent of Post Offices,  
Kottayam Division, Kottayam. ..Respondents

(By Advocate Mr.Govindh K Bharathan, SCGSC (rep))

The application having been heard on 14.3.2000, the Tribunal  
on the same day delivered the following:

O R D E R

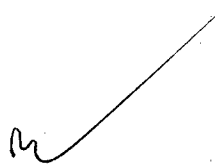
HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant who retired on superannuation on  
31.12.94 was on a charge of showing bogus warrant of payment  
in respect of S.B.Account No.550245 standing open at  
T.V.Puram in the name of Smt.V.N.Saradamaniamma for  
Rs.4000/- to cover up a shortage of Rs.4000/- in the office  
cash was proceeded departmentally under Rule 14 of the

Central Civil Services (Classification, Control and Appeal) Rules and was initially awarded a penalty of dismissal from service by the disciplinary authority. In appeal the penalty was reduced to one of reduction to the lower post of Postman for a period of two years. Arising out of the transaction in connection with the allegation forming the basis of the charge a criminal case for offence under Section 409 of the Indian Penal Code was registered against the applicant as Crime No. 541/89 of Vaikom Police Station. However, in the criminal case CC. 764/93 the Judicial Magistrate of the First Class, Vaikom vide judgment dated 4.3.99 finding that the prosecution did not succeed in establishing the offence alleged against the applicant beyond reasonable doubt acquitted the applicant under Section 248(1) of the Code of Criminal Procedure of the offence under Section 409 of the Indian Penal Code. On the acquittal of the applicant of the offence with which he was charge sheeted and prosecuted, the applicant made a representation for a review of the order passed against him in the departmental proceedings. The second respondent considered the representation of the applicant and found that as the prosecution and the departmental proceedings were not for identical charges and as the degree of proof required in both these proceedings are of different level there was no justification for reviewing the order and therefore, turned down the representation. Aggrieved by that the applicant has filed this application for setting aside the order dated 9.12.99, for a declaration that the entire disciplinary proceedings taken against the applicant

during the pendency of the police investigation and criminal trial was unconstitutional, illegal and arbitrary and for a direction to the respondents to disburse to the applicant the full salary and other service benefits due to the applicant with eighteen percent interest as if he continued as Sub Post Master/Postal Assistant irrespective of the departmental action and to give the applicant everything claimed by him in his representation A4. However when the application came up for admission, the prayer in Sub Para (iii) of para 8 of the Original Application is not pressed. in this O.A and he would seek appropriate remedies regarding that separately. So that prayer is not being considered.


2. We have heard the learned counsel of the applicant and have perused the entire materials placed on record. We have also heard the learned counsel appearing for the respondents. The applicant was awarded a penalty of dismissal from service which was reduced to one of reduction in rank by the appellate authority after an enquiry held in conformity with the rules for a misconduct of having produced a bogus warrant of payment to cover up a shortage of Rs. 4000/-. The finding in the departmental proceedings entered by the disciplinary authority was upheld by the appellate authority and there was no challenge to these orders before any judicial forum. The criminal charge against the applicant was for an offence under Section 409 of the Indian Penal Code which is not the same as the allegation which formed the basis of the departmental



proceedings though both the proceedings might have originated in connection with the same transaction. The degree of proof required in a departmental proceedings is of a much lower standard than what is required for conviction in a criminal case though mere suspicion would not be sufficient to bring home the guilt even in a departmental proceedings. The finding that the applicant was guilty of the charge framed against him in the departmental enquiry has become final as the appellate order was not challenged before any judicial forum. Just because the prosecution against the applicant on a criminal charge arising as part of the same transaction, but different in content ended in his acquittal as the prosecution failed to prove the guilty beyond shadow of reasonable doubt it does not render the orders of the disciplinary and appellate authorities based on findings on the proceedings which had become final null and void unconstitutional or arbitrary.

3. The learned counsel of the applicant invited our attention to three rulings of the Apex Court. They are the following:

(i) 1994 Sup.(3) SCC 674 (Sulekh Chand & Salekh Chand Vs. Commissioner of Police and others) wherein the Supreme Court held that on acquittal in a criminal case the appellant who had continued under suspension was entitled to reinstatement.



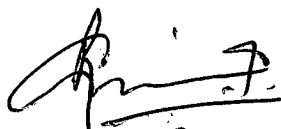
(ii) 1995 Sup.(4) SCC 446 (Food Corporation of India Vs. Surajbhan) wherein the Apex Court refused to interfere with the view taken by the High Court in quashing the departmental proceedings initiated against the same set of allegations on the basis of which a prosecution was held but ended in his acquittal.

(iii) 1993 (1) LLJ 168 (P.J. Sunderarajan and another Vs. Unit Trust of India and another) wherein it was held that while the trial of a criminal case is pending the departmental proceedings initiated to same set of facts should be stayed.

None of the above rulings has any bearing to the facts of this case nor do they support the claims of the applicant that his acquittal in criminal case would render the orders passed on the disciplinary proceedings inoperative, null and void.

5. In the light of what is stated above, we do not find anything in this case which calls for admission and further deliberation and therefore, we reject the same under Section 19(3) of the Administrative Tribunals Act. No order as to costs.

Dated the 14th day of March, 2000



G. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

S.

List of annexure referred to:

Annexure.,A4: A true copy of the representation dated 28.6.99 submitted by the applicant before the second respondent.

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