

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

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Original Application No. 318 of 1991

Krishan Kumar Singh Applicants.

Versus

Union of India & ors. Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. K.Obayya, Member-A

(By Hon'ble Mr. Justice U.C.Srivastava, V.C.)

The applicant was appointed as Extra Departmental Delivery Agent (E.D.D.A.) in the year, 1982 by the Sub Divisional Inspector (North) Post Office, Sitapur. In the year, 1986 the applicant was implicated in a case under section 302/34 I.P.C. The F.I.R. was lodged against him at P.S.Kotwali, Sitapur on 12.1.1986. The applicant was also arrested for Criminal case and later on he was convicted for life imprisonment. In appeal he was bailed out and the sentence was stayed. As the applicant was sent to jail he was ordered to be put off from duty vide order dated 31.1.1986, but was taken back on duty on 5th, December, 1987 during the pendency of the criminal trial.

2. By this application, the applicant has prayed that although he joined duty on 17.2.1987, but after conviction, notwithstanding the fact that he has been bailed out and the sentence has been stayed. The applicant was served an order dated 14.1.1991 dismissing him from service from the date of conviction which order is under challenge.


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The plea on behalf of the applicant is that his appeal against the said order is pending, the matter is subjudice and the applicant who has been enlarged on bail and has been working after revocation of the put off from duty and he could not be dismissed from service and that too without there being any proceedings. As matter of fact, Article 311 of the Constitution of India envisages certain cases in which a person can be dismissed from duty without there being an enquiry. The instant case is a case of that nature.

4. Undoubtedly, the Tribunal is not competent that, notwithstanding the punishment, in view of serious nature of the charges, which is evident from the finding so arrived at, to pass an order or send the matter to the competent Authorities. But, in the instant case, as the applicant has been convicted on charge under section 302/32 I.P.C, it is not a case in which the interference is to be made at this stage, as the conviction still stands even though sentence has been stayed. The respondents are within their rights to dismiss the applicant without holding any enquiry. As such the application deserves to be dismissed, and it is accordingly dismissed.

5. In case, the applicant ultimately succeeds ^{in the Criminal Case} and obviously he can again apply for reinstatement in service, which will be considered by the department in accordance with law.


Member-A


Vice-Chairman