

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Circuit Bench at Lucknow

O.A.No. 1135 T.A.No. 1937

DATE OF DECISION

K. K. Misra

Petitioner

R. B. Khare

Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent

R. K. Dhawan

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. D. S. Misra, A.M.

The Hon'ble Mr. G. S. Sharma, J.M.

- ✓ 1. Whether Reporters of local papers may be allowed to see the Judgement ?
- ✓ 2. To be referred to the Reporter or not ?
- ✓ 3. Whether their Lordships wish to see the fair copy of the Judgement ?
- ✓ 4. Whether to be circulated to other Benches ?

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Circuit Bench at Lucknow.

Registration T.A.No.1135 of 1987

K.K. Misra Petitioner

Versus

Union of India & Others Respondents.

Hon.D.S.Misra, A.M.

Hon.G.S.Sharma, J.M.

(By Hon.D.S.Misra, A.M.)

This is an original Writ Petition No.137 of 1987 which was pending in the Lucknow Bench of the High Court of Judicature at Allahabad and has come on transfer under Section 29 of the Administrative Tribunals Act XIII of 1985. The petitioner has prayed for quashing the order of dismissal passed by the Deputy Post Master (Gazetted), Kanpur (Opposite Party No.4).

2. The admitted facts of the case are that the petitioner while working as Sub Post Master, Kanpur Post office was involved in a fraudulent withdrawal from Kanpur Court's Post Office Saving Bank Account No.1952249. After preliminary inquiry by the Assistant Postmaster General (Investigation), the matter was referred to the Central Bureau of Investigation and a case under Section 120-B/420 I.P.C. was registered. Later on the petitioner was suspended

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with effect from 8.8.73; that the petitioner was tried for a criminal charge by the Additional Chief Judicial Magistrate, Anti Corruption, Lucknow and in that case he was found guilty and convicted to three months R.I. and sentenced to pay a fine of Rs.5000/- and in default to undergo ten months R.I.; that the petitioner filed an appeal against his conviction in the Court of Sessions Judge, Lucknow which was rejected by the Additional Sessions Judge, Lucknow vide his judgement dated 2.8.1977. The petitioner filed a revision before the Hon'ble High Court. In the meantime the petitioner was dismissed from service vide order dated 24.12.77; that the Hon'ble High Court vide its judgement dated 31.8.78 allowed the revision petition No. 259 of 1977 by setting aside the judgement and order dated 2.8.77 passed by the Additional Sessions Judge, Lucknow and the case was remanded to the Trial Court for deciding the matter afresh on the points formulated in the judgement of the Hon'ble High Court. On 24.2.1979 the petitioner was reinstated in service and was ordered to remain in suspension. The fresh trial in the Court of Additional Chief Judicial Magistrate concluded on 20.1.1981 and the petitioner was again convicted. The petitioner filed an appeal against his conviction and the appeal was decided on 18.11.82. On 20.11.82 an order was passed by respondent No.4 *the applicant* dismissing *him* from service w.e.f. 18.11.82.

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On 20.11.82 the petitioner filed a revision before the Hon'ble High Court. The petitioner made various representations to the respondents for revoking his dismissal order but no orders were passed on the aforesaid representation of the petitioner. The applicant filed the writ petition praying for quashing of the order of dismissal passed by the respondents and the same has come on transfer after establishment of the Tribunal.

3. The petitioner filed an application for amendment of the claim petition and the same was allowed. In the amended petition it has been stated that the criminal revision against his conviction has been decided by the Hon'ble High Court on 14.10.87 and the petitioner has been acquitted of the charge. After the judgement of the Hon'ble High Court the petitioner made several applications to the respondents to revoke his dismissal order but no action was taken by the respondents. The petitioner has sought a direction to the respondents to reinstate him in service and to pay him the salary with all increments and benefit from the date of his suspension to the date of his retirement on 31.5.1984.

4. In the supplementary reply filed on behalf of the respondents it is stated that the S.P., S.B.I. has informed that they have decided not to file any appeal against the judgement of the Hon'ble High Court

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and the Department may take departmental action as considered fit. It is added that departmental action is under initiation and the matter will be finalised after completion of the departmental inquiry.

5. We have carefully examined the contentions raised before us by the learned counsel for the parties in the light of the material on record. The facts of this case are not in dispute and it is also not in dispute that the petitioner had been acquitted of the criminal charge in revision by the High Court. The settled law is that if a Government servant is removed from service or otherwise punished only on the basis of his conviction in a criminal case, the disciplinary authority is bound to review his case on his acquittal in his case by the competent court. As contended on behalf of the respondents even the case of the petitioner was reviewed by them after his acquittal by the High Court and they decided to initiate the disciplinary proceedings against him for the alleged misconduct leading to his conviction. As the necessary material is not before us we will not like to comment whether after the acquittal of the petitioner the respondents can initiate the disciplinary proceedings against him or not, ^{However, if} we will ^{also} _^ certainly like to suggest that such matter has already been delayed and in the meantime the petitioner has already retired from service, it will be expedient and in the interest of justice that the disciplinary

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proceedings initiated against the petitioner
and be finalized as early as possible and in any case
within a period of one year. The final orders
in the case of the petitioner regarding his
dismissal can only be made when the disciplinary
proceedings are finalised in accordance with the
provisions of C.C.S.(CC&A) Rules, 1965 and no
relief can be granted to the petitioner in this
case. The petition is disposed of accordingly
without any order as to cost.

Subarao

Bhowmik

J. M.

A.M.

Dated the 30th Nov., 1988.

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