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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 116 of 1992

Akhilesh Kumar Dixit . . . . . Applicant

Versus

Union of India & Others . . . . . Respondents

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

Hon'ble Mr. K. Obayya, Member (A)

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

As the pleadings are complete, the case is being heard and disposed of finally.

2. The applicant was appointed as Extra Departmental Branch Postmaster, Kutuwapur district Hardoi on 27.7.1984. On 30.9.1985 one Ram Awtar Shukla informed that the applicant was in Jail between 22.9.1985 to 30.9.1985 under section 306 I.P.C. and enquiry was made and it was found that the fact was correct and he was granted bail on 30.9.1985, as the applicant was put off from duty vide order dated 7.10.1985, as has been stated by the respondents not through/admitted by the applicant. Later on a report was received that there was no direct evidence as such the applicant was ordered to put back from duty vide order dated 25.11.1985. On 21.5.1987, the S.D.I. informed that the applicant was sentenced to five years imprisonment by the Civil & Sessions Judge Hardoi under section 306 I.P.C. dated 19.5.1987. As the applicant was convicted by the competent court of law for five years, and he was ordered to be removed from service under rule-6 of E.D.As (Conduct & Service) Rules-1964 as he had less than 3 years' service at

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his credit and he was convicted by the criminal court.

2. The applicant filed an application before this tribunal, which was allowed the same and quashed the order dated 27.5.1987 and directed that the applicant will be re-instated. The applicant was re-instated and took over the charge of B.E.M. Kutuwapur on 22.7.1991. He claimed the allowances for the period during which he was put off from duty.

3. On behalf of the applicant it was contended that his father Avdesh Narayan, who was Extra Departmental Runner was also convicted and he filed a claim petition and the claim petition against the termination order which was quashed on 2.5.1989 and an order was passed that his father will get all the consequential benefits, but the same was not given, his services were again terminated and he filed another application. Earlier application which was also allowed and the order was quashed and the applicant's father was directed to be treated in service with all the consequential benefits. The termination order has been quashed, the applicant will be deemed to <sup>in</sup> be continuing service and entitled to all the consequential benefits including the arrears of the salary and in this connection has made reference to the case of his father.

4. The applicant can not equate his case with that of his father who was a Extra Departmental Runner. The conviction of more than 1 <sup>year</sup> take place in the criminal court, but in respect of the role played by them. The role of the father and son can not be same and father and

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son have been convicted and the application of his father was allowed with all the consequential benefits taking into consideration that the facts of his case and extent of his role, the applicant can not claim the same benefits and if the same benefits has not been given by the tribunal, We can not sit in judgement over the same and pass an order which the tribunal was not inclined to pass and it allowed the earlier application. Accordingly, so far as this relief is concerned, the relief can not be granted to the applicant. The applicant who will not be entitled to any allowances during the period he was put off on duty as he was put off on duty not without any rhyme and reason. The act <sup>instruction</sup> Departmental/also provides for not paying allowance during the period of person who is put off from duty. We are not inclined to interfere in this matter as in our opinion that it was not without any just and reasonable cause, or he was even terminated, his termination order has been quashed because the sentence has been suspended, though the conviction still subsists and his appeal is pending in the High Court. We do not find any ground to modify the order passed by the tribunal and to grant the relief as claimed by the applicant comparing his case with that of his father. Accordingly, this application is dismissed. However, in case, the appeal against the conviction is allowed what it will lead to, no observations at this stage is

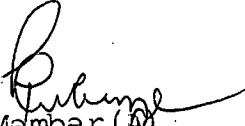
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needed. With these observations, the application  
is disposed of finally. No order as to the costs.

  
Member (A)

  
Vice-Chairman

Lucknow Dated: 17.12.1992.

(RKA)