

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O. A. No. 64 of 1996.

Date of Order : 01.09.1999

(Order dictated in open Court.)

Shri Basant Kumar Sinha, s/o Late Naresh Chandra Sinha,
Maharaj Ghat Road, Bari Khanjerpur, Bhagalpur in Bihar,
Ex-Storekeeper-cum-Accounts Clerk in the office of the
Development Commissioner(H), Carpet Weaving Training-cum-
Service Centre, Lohia Nagar, Kankarbagh, Patna.

.... Applicant

Vrs.

1. Union of India through the Secretary, Ministry
of Textiles, New Delhi.
2. The Development Commissioner (Handicrafts),
West Block No.7, R.K.Puram, New Delhi.
3. The Secretary, Govt. of India, Ministry of
Textiles, New Delhi.

.... Respondents.

Counsel for the applicant : Shri R.K.Jha.

Counsel for the respondents : Shri V.M.K.Sinha, Sr.S.C.

C O R A M

Hon'ble Shri L.R.K.Prasad, Member (Administrative)

Hon'ble Shri Lakshman Jha, Member (Judicial)

ORDER

Heard the learned counsel for the parties and perused the materials on record.

2. This application has been made against the office letter no. HC-1(42)/90 vig.274 dated 21st April, 1995 issued by the Respondent No.2 (The Development Commissioner(H), dismissing the applicant from service on and from 16.5.1995 and rejection of appeal vide letter dated 5.12.1995 by the Respondent No.3. While working at Patna, as Storekeeper-cum-Accounts Clerk under the office of the Development Commissioner, Govt. of India, the applicant received a memorandum dated 10.10.1994, which is at Annexure-A/8. As directed, he appeared in Delhi on 25.10.1994 to participate in an enquiry. The enquiry finding is at Annexure-A/1. It appears that relying upon the conviction and sentenced as imposed by the Trial Court under section 494 and 498 of the IPC, the applicant was dismissed from the services vide order dated 21st April,1995 as at Annexure-A/3. Against the order of dismissal, the applicant filed an appeal before the appellate authority vide representation as at Annexure-A/5. While rejecting the appeal representation of the applicant vide order dated 5.12.1995, as at Annexure-A/7, the appellate authority made following

observations :-

"The dismissal order dated 21.4.1995 has been validly passed. In case new developments occur on the appeal filed by Shri B.K.Sinha in the Appeal Court regarding his conviction under Section 494 and 498 of the Indian Penal Code, then, subject to the out-come of the appeal in Appeal Court and whether Shri Sinha is fully vindicated or given a benefit of doubt, or any other outcome, the matter could be considered suitably at that point of time."

3. Against the order of Trial Court, the applicant preferred an appeal before the Additional District & Sessions Judge, Bhagalpur. The judgment of the Additional Sessions Judge dated 11.12.1998 is at Annexure-A/7 filed with supplementary rejoinder of the applicant. After examining the merits of the case, the Additional Sessions Judge set aside the conviction ^{and} of ~~the~~ sentenced as imposed against the applicant. Para 6 of the judgement is as follows :-

"From the discussion made above I am of the view that the impugned judgment is fit to be set-aside and the same is accordingly set-aside and both the appeals aforesaid are hereby allowed as well as both the appellants are exonerated from the liability of their bail bond."

4. The learned counsel for the applicant stated that the new developments containing the judgement of Additional Sessions Judge has~~ve~~ already been brought

to the notice of concerned authority. Vide letter dated 26.5.1999, The Regional Director (SC) in the office of the Development Commissioner (Handicrafts), Govt. of India had asked the applicant to submit a certified copy of Court's order dated 11.12.1998. He further stated that the certified copy of the judgement has — already been sent to the concerned party. *recd. m/s. sub*

5. During the course of argument, the learned counsel for the applicant relied upon the order of the Hon'ble Supreme Court dated 16.1.1991 passed in the case of Babulal Vrs. State of Haryana (AIR 1991 SC page 1310). In this case it is held that ^{it is the} ~~the~~ settle position of law that the appellant who was suspended on the ground of pendency of criminal proceeding against him, on being acquitted of the criminal charge, he is entitled to be re-instated in service.

6. From the perusal of records, we find that the applicant was dismissed from service on the basis of judgement of conviction on a criminal charge under section 494 and 498 of IPC. The ^{said} ~~very~~ ground ^{becomes} ~~non est~~ in view of the judgement of the Additional Sessions Court, which has set aside the order of the Trial Court. It is the prayer of the applicant that his order of dismissal as contained in Annexure-A/3 and the rejection of his appeal vide Annexure-A/7 be quashed and he be declared on duty from 16.5.1995.

7. We have considered the entire matter in the light of analysis made above including the legal position. This O. A. is disposed of with the direction on the respondents to consider the prayer of the applicant for re-instatement in service in the light of above facts and position of law. This should be done within a period of three months from the date of communication of this order. No costs.

LJha

(Lakshman Jha)
Member (Judicial)

L.R.K. Prasad

(L.R.K. Prasad)
Member (Admn.)

MPS.