

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO.887/2000
DATED THE 3RD DAY OF DECEMBER, 2001

CORAM: HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT, VICE CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

Albert Lyall,
residing at 18/2,
PFH Quarters, Khadki, Pune
411 003.

... Applicant

By Advocate Shri S.V. Marne for
Shri S.V. Sadavarte

V/s.

1. The Secretary to the
Government of India,
Ministry of Defence,
New Delhi.

2. The Chief Engineer,
Head Quarters,
Southern Command,
Engineers' Branch,
Pune - 411 001.

... Respondents.

By Advocate Shri R.K. Shetty

(ORAL)(ORDER)

Per Smt. Shanta Shastri, Member(A)

The relief sought in this application by the applicant is to reinstate him in service with continuity of services and pay him the arrears of salary from August 1984 to May 2000 and grant other consequential reliefs including pensionary benefits.

2. The applicant was serving as Lower Division Clerk (LDC) in the Office of the Chief Engineer(HQ), Southern Command, Pune in 1984 when he was arrested by the Civil Police on 27/5/1984 for kidnapping, abduction and committing rape of a minor girl. The applicant was in police custody from 27/5/84 to 7/6/84 and was accordingly suspended from service under the Rule-10 of CCS(CCA) Rules 1965 vide letter dated 4/8/1984. The applicant was charged

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with offences under section 363, 366 and 376 of the I.P.C. The Sessions judge Pune held the applicant guilty under Section 366 and 376 of the I.P.C and convicted him for 7 and 2 years Rigorous Imprisonment as per the judgement delivered on 12/11/1984. On the basis of the aforesaid conviction, the respondents dismissed the applicant from service under Rule - 19(1) of the CCS (CCA) Rules, 1965 vide letter dated 19/3/1985. The applicant had later filed an appeal in the High Court of Bombay and the appeal was decided in his favour setting aside the conviction by giving him the benefit of doubt as per judgement dated 19/3/1997. The applicant therefore approached the respondents to reinstate him in service. However, the respondents did not accede to his request. He was given reply on 16/10/99.

3. The case of the applicant is that since the High Court has acquitted the applicant, the applicant is entitled for reinstatement in service.

4. The respondents however have taken the stand that though the applicant was acquitted, he was acquitted by giving him the benefit of doubt and the evidence on record shows enough material to establish and infer that the applicant has committed the offences charged against him or alternatively he had illicit relationship with a minor girl by misusing his power as Guardian. According to them a man who has exhibited such conduct is clearly not a fit person to be reinstated in Government service and hence his request for reinstatement was rejected.

5. We have heard the learned counsel for the applicant as well as the respondents. We do appreciate that the Hon'ble High Court of Bombay has acquitted the applicant, however, it is by giving the benefit of doubt. According to the Principles of

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22/10/82

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...natural justice, the respondents should have considered the request of the applicant for reinstatement as per law and rules. The respondents should not have rejected the request of the applicant without properly examining the matter. If still the respondents were of the view that the applicant should not be reinstated, or should not be continued in service, they should have taken recourse to the Disciplinary Proceedings. They could not have summarily rejected the case of the applicant as has been done now.

6. We therefore quash and set aside the order dated 16/10/82 and direct the applicant shall be reinstated in service with immediate effect. It shall be open to the respondents to take suitable action as deemed fit as per law and rules in the matter. The period intervening between the dismissal and the reinstatement of the applicant may be treated according to rules and prevalent law. The OA is disposed of accordingly. No costs.

(BIRENDRA DIKSHIT)
VICE CHAIRMAN

(SMT. SHANTA SHASTRY)
MEMBER (A)

adp

22/10/82
Order/Judgment dispatched
to A. S. and B. S. (2)
on 22/10/82

22/10/82