

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 344/2001

R. K. Shukla

(By Advocate Shri P. A. Prabhakaran)

VERSUS

Union of India & anr.

(By Adv. Shri R. R. Shetty with Shri R. K. Shetty)

CORAM : Hon'ble Shri S. Biswas - Member (A)  
Hon'ble Shri Muzaffar Hussain - Member (J)

- ☒ (i) To be referred to the Reporter or not ?
- ☒ (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- ☒ (iii) Library ?

S. Biswas  
(S. Biswas)  
Member (A)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Dated this 22<sup>nd</sup> the       day of October, 2003

Coram: Hon'ble Shri S.Biswas                                - Member (A)  
          Hon'ble Shri Muzaffar Hussain                   - Member (J)

O.A. 344 of 2001

R.K.Shukla,  
R/o B/12/59, Kendriya Vihar,  
Sector-38, Nerul,  
Navi Mumbai.  
(By Advocate Shri P.A.Prabhakaran)                                - Applicant

Versus

1. Union of India  
    through the Director General,  
    Department of Lighthouses and Lightships,  
    Ministry of Surface Transport,  
    Government of India,  
    A-13, Sector 24, Noida (U.P.) 201 301.
2. The Director,  
    Department of Lighthouses and Lightships,  
    Ministry of Surface Transport,  
    Government of India,  
    Deep Bhavan, M.G.Road, Ghatkopar (East),  
    Mumbai - 400 077.  
    (By Advocate Shri R.R.Shetty with  
    Shri R.K.Shetty)    - Respondents

O R D E R

By Hon'ble Shri S.Biswas, Member (A) -

The applicant who statedly joined the Department of Lighthouses and Lightships in the year 1962 and elevated to Junior Engineer (Civil) in 1984, was placed under suspension in the same year since 27.9.1984 and transferred from Mumbai to Vengurla but he was permitted to be posted back to Mumbai with High Court's order after a period of eleven months. In 1985, a criminal case No.6/P/85 was lodged against him in the Esplanade Court for taking part-time work. The disciplinary authority placing him under suspension lodged another criminal case (No.34/85) for alleged defalcation of official fund and manipulation of wage bills. On 22.6.1987 the applicant was

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discharged in Criminal Case No.6/P/85 and on 24.10.1996 he was also acquitted in the Criminal Case No.34/85 in the C.B.I.(Special Court) as well. In the meantime his subsistence allowance which was also suspended was restored by the order of the Hon'ble Supreme Court on 1.5.1989. Even the disciplinary case initiated by the department with reference to the allegation of his taking a part-time job concluded in dropping of the same vide order dated 24.7.2000. In the meantime the applicant had retired on 31.12.1996.

2. The applicant admittedly received the following reliefs and benefits consequent upon all the proceedings being concluded, dropped or decided in his favour.

(a) Pay and allowances for the period September, 1984 to December, 1992 Rs.1,77,812/- (less Rs.23,478/- towards Income-tax).

(b) Pay and allowances for the period January, 1993 to December, 1996 Rs.1,60,301/- (less Rs.19,619/- towards Income-tax). The statement of pay and allowances and certificate of tax deduction are at Exhibit A-4 collectively.

(c) Gratuity was paid to the applicant as reduced by a sum of Rs.11,300/-. The applicant sought clarification by various letters ending with the one dated 8.1.2001. Prior to that, inter alia the following letters were exchanged.

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(d) Letter dated 31.7.2001 in respect of the available clarification with the applicant in respect of the sum of Rs.11,300/-.

(e) Letter dated 18.8.2001 from respondent no.2 seeking the account from the applicant as the papers in the office in respect of the bill dated 1.11.1983 was not traceable.

(f) Letter dated 12.9.2000 from respondent no.2 explaining bifurcation of Rs.11,300/- in this letter it has been stated that Rs.7,300/- as reduced by Rs.651/- equal to Rs.6,649/- is payable to the applicant this admitted amount of Rs.6,649/- was paid on 16.1.2001.

3. In this application the applicant has sought further reliefs by way of notional promotion as due to him since 1987 when his juniors were promoted as Assistant Engineers w.e.f. 25.2.1987 and further promotion if any similarly due and given to his juniors as per official records in this behalf. The applicant has also alleged that full DCRG was not paid inasmuch as a sum of Rs.3000/- was retained in the department for adjustment of dues pending against him which he has disputed.

4. Heard both sides.

5. The learned counsel for the respondents has contended that for notional promotion with retrospective effect he ought to be

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honourably acquitted. The order of dropping of the proceedings vide order dated 24.7.2002 cannot be treated as an honourable acquittal. We have perused this order. With the dropping of the proceedings it is immaterial whether this was an honourable acquittal or not, that is relevant in a criminal court. We do not consider it an impediment to, his claiming full benefits after that order of dropping. A charge is dropped as it is found not supported by evidence. Admittedly all other consequential benefits except a sum of Rs.3000/- of DCRG dues which has been withheld as disputed have been settled or in some cases he has sought clarifications which the respondents would give.

6. We dispose of this OA with the directions -

(i) to consider notional promotion as and when his juniors were promoted with reference to available past service records as possibly, no ACRs for the suspended period would have been initiated. If so for the blank period the immediately earlier past records will be considered and review DPC held within four months and notional promotion, if found fit will be considered and given alongwith consequential pay fixation benefits be accorded. The same if any be permitted to be computed in a finalisation of pension commutation, leave salary and DCRG. The entire exercise should be completed within four months of receipt of this order. If any of his juniors were promoted subsequently to higher grade, he is eligible for similar consideration by way

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of subsequent review DPC and consequent benefit if found fit by the review DPC. would be granted. Interest of 9% per annum is payable on all pensionary benefits, leave salary, commutation and DCRG if any, payable due to notional promotion from four months after the order dated 24.7.2000 till the date of payment.

(ii) As regards, non-payment of a sum of Rs.3,000/- (part DCRG) which is allegedly held back as disputed, a speaking order should be passed by the respondent no.2 after considering his fresh application to be made in this behalf within four weeks of this order by the applicant giving detailed accounts and grounds why the same is payable to him. Similar representations for other claims as listed ibid may be submitted for consideration. The respondent no.2 is directed to dispose of the said representations if any made, within two months thereafter. Any delay caused by the applicant would only extend this period by that many number of days and weeks.

(iii) No order as to costs.

  
(Muzaffar Hussain)  
Member (J)

  
(S. Biswas)  
Member (A)

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