

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR

Date of decision: 9-1-1996

OA No.200/95

Kesar Singh alias Bhagat Singh

.. Applicant

VERSUS

Union of India and Others

.. Respondents

CORAM:

HON' BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON' BLE MR. O.P.SHARMA, ADMINISTRATIVE MEMBER

For the Applicant

.. Mr. F.D.Khanna

For the Respondents

.. Mr. U.D.Sharma

ORDER

PER HON' BLE O.P.SHARMA, ADMINISTRATIVE MEMBER

In this application under section 19 of the Administrative Tribunals Act, 1925, Shri Kesar Singh alias Bhagat Singh has prayed that the orders dated 15-12-1961 (Ann.A9), placing the applicant under suspension and dated 26-11-1984 (Ann.A1) imposing on the applicant the penalty of dismissal from service, may be quashed and it may be held that the applicant continues in service if the said orders had not been passed and is entitled to ^{be} restored to his original position according to his seniority vis-a-vis his juniors. He has further prayed that it may be declared that the applicant is entitled to receive a sum of Rs. 1,92,000/- by way of back wages from the date of his suspension to the date of his reinstatement. His another prayer is that it may be declared that the applicant is entitled to salary and allowances at the rate of Rs. 1200/- with such increase which may be sanctioned from time to time. Finally, he has prayed that the order passed by the Tribunal on 26-7-1994 in OA No.692/92, dismissing the applicant's OA may also be set aside.

2. The facts of the case as stated by the applicant are that while working as a Hammerman in Carriage and Wagon

...2/-

95

Workshop, Western Railway, Ajmer, he was involved in a criminal case under sections 148 and 302/149 I.P.C. along with certain others and was suspended w.e.f. 15-12-1981 (Ann.A9). The applicant and other co-accused were convicted under the aforesaid sections of the I.P.C. and sentenced to imprisonment for life with fine of Rs. 1000/- and further 1 years rigorous imprisonment under section 148 I.P.C. Thereupon the applicant preferred an appeal against the conviction and sentence as aforesaid. The respondent No.2 issued a show cause notice to the applicant during the pendency of the appeal, as aforesaid for taking departmental action against the applicant. However, without considering the reply submitted by the applicant to the show cause notice, respondent No.2 dismissed the applicant from service vide notice of imposition of penalty dated 26-11-1984 (Ann.A1). Later vide judgement dated 7-2-89, the High Court acquitted the applicant of the charge under section 302/149 I.P.C. (Ann.A2). On receipt of the judgement, the applicant approached the department for reinstatement in service but no action was taken by the department to reinstate him. The applicant filed an OA before the Tribunal seeking appropriate relief and the Tribunal, in the applicant's OA No. 692/92, passed order dated 26-7-1994, in which it pointed out that in the High Court's judgement there was no mention that the applicant had been acquitted of the offence under section 148 of I.P.C. unless The Tribunal observed that the applicant moved an application for correction of the judgement, it would be deemed that conviction under section 148 I.P.C. has been maintained and that he has not been acquitted of the offence under the said section. Thereafter, the applicant moved the High Court by filing a Criminal Misc. Application under section 482 Cr.P.C. for correction of the judgement of the High Court dated 7-2-1989. The High Court passed another order (Ann.A4) dated 9-9-94

95

whereby it was held that the applicant also stood acquitted of the offence under section 148 of I.P.C. On receipt of a copy of this order, the applicant again approached the department for reinstatement in services. However, no action has been taken by the department to reinstate him so far. The applicant's claim is that he is entitled to reinstatement in service as also for back wages from the date of his suspension i.e. 15-12-1981 to the date of his reinstatement with all consequential benefits.

3. No reply has been filed by the respondents.

4. We have heard the learned counsel for the parties and have perused the records. The order at Ann.A1 was passed by respondent No.2 on the ground of the conduct which led to the applicant's conviction by a Court of Law. By virtue of orders Ann.A2 dated 7-2-1989 and Ann.A4 dated 9-9-1994 which are the judgements/orders of the High Court, the applicant stands acquitted of all the offences with which he was charged and on the basis of which he was convicted and sentenced. Since the sole ground on which the departmental penalty of dismissal was imposed on the applicant was the conduct which led to the applicant's conviction by Court of Law, no basis now remain for imposition of penalty of dismissal on the applicant. In these circumstances, the penalty imposed on the applicant is quashed with necessary consequential benefits. The respondents shall also pass necessary order under F.R.54B or the equivalent rule applicable to railway servants regulating the period of suspension of the applicant, within 3 months from the date of this order.

5. The OA is disposed of accordingly with no order as to costs.

(O.P.Sharma)
Member(A)

(Gopal Krishna)
Vice Chairman