

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 08.10.2001

OA No.61/1995

Mohammad Rais s/o Mohammad Shafiq r/o F-2, G.P.O. Colony,  
Jaipur

..Applicant

Versus

1. Union of India through the Director General,  
Post Offices, New Delhi.
2. The Director of Postal Services, Jaipur  
Division, Jaipur
3. The Senior Superintendent of Post Offices,  
Jaipur City Division, Jaipur

.. Respondents

Mr. Ashok Mishra, counsel for the applicant

Mr. Bhanwar Bagri, counsel for the respondents

CORAM:

Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Singh, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant, Mohammad Rais, has prayed for quashing the impugned orders dated 31.1.1992, 28.10.1992 and 28.2.1994 placed at Annexures-A5, A7 and A9 respectively and pass an order to refund the amount of Rs. 10,000/- recovered from the applicant. The applicant has further prayed for a direction to the respondents to consider his case for promotion with all consequential benefits.

*Gopal Singh*

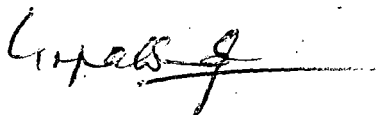
2. Applicant's case is that he was initially appointed as Driver with the respondent Department on 1.12.1968. While the applicant was discharging his duties as Driver on vehicle No.RRM-3597 on 20.9.1982, the said vehicle met with an accident and collided with one cycle rider namely Shri Manak Chand, who on account of injuries sustained by him, died on 21.9.1982. A claim petition was filed before the Motor Accident Claims Tribunal, Jaipur and the Tribunal passed an award on 22.9.1987 of Rs. 32,160/- alongwith interest at the rate of 12% against the respondents and the applicant jointly and separately. A criminal case was also registered against the applicant under Section 304 A of IPC before the Judicial Magistrate No.1, Jaipur City, Jaipur. The learned Judicial Magistrate No.1, Jaipur City, Jaipur acquitted the applicant vide order dated 1.4.1991 giving him the benefit of doubt. The departmental authorities served a show-cause notice on 10.10.1991 to the applicant under CCS (CCA) Rules, 1965, alongwith the statement of imputation of misconduct. The applicant submitted a detailed reply to the said show-cause notice on 24.1.1992. The Disciplinary Authority, without recording any evidence during the disciplinary proceedings against the applicant and without giving an opportunity of personal hearing to the applicant, ordered recovery of Rs. 16,200/- in 36 instalments from the applicant vide order dated 31.1.1992 (Ann.A5). The appeal filed by the applicant was considered by the Appellate Authority and it was ordered that the amount of recovery be reduced to Rs. 10,000/- recoverable in 20 instalments vide order dated 28.10.1992 (Ann.A7). The revision petition filed by the applicant was rejected vide order

*Carpalis*

dated 28.2.1994 (Ann.A9). Feeling aggrieved, the applicant has filed this OA. The contention of the applicant is that the learned Judicial Magistrate No.1 acquitted the applicant holding that the evidence of prosecution witnesses did not prove the applicant liable for committing the offence under Section 304-A of the IPC. Since the Criminal Court has acquitted the applicant, the department was not within its rights to proceed against the applicant and order recovery of the amount of compensation claim passed by the Motor Accident Claims Tribunal.

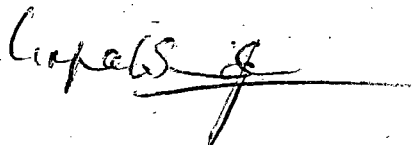
3. In the counter, it is stated by the respondents that the learned Motor Accident Claims Tribunal had concluded that the accident took place due to rash and negligent driving of the Mail Motor by Shri Mohammad Rais (the applicant) and, therefore, the disciplinary proceedings were initiated against the applicant and after considering the representation of the applicant, the competent authority has imposed the penalty of recovery of Rs. 16,200/- in suitable instalments from the applicant. The Appellate Authority has further reduced the amount of recovery to Rs. 10,000/-. It is also pointed out by the respondents that the department was within its rights to proceed against the applicant irrespective of the fact that the applicant was acquitted by the Criminal Court. It has, therefore, been averred by the respondents that the application is devoid of any merit and is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused records of the case carefully. The

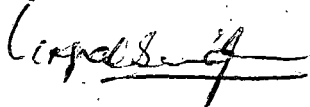


learned counsel for the applicant did not press for the prayer of promotion of the applicant. Moreover, this prayer is not consequential to the prayer of pay fixation. As such, we are not expressing any opinion on the prayer of promotion.

5. A similar controversy had come up earlier before this Bench in OA No.58/99 decided on 27.7.2001 where one of us (Shri Gopal Singh) was also a member. In that case also a Mail Motor Service vehicle had met with an accident and one person was injured, who subsequently died in hospital. A criminal case was registered against the Driver of that vehicle for rash and negligent driving. However, the Driver was acquitted of the charges. Another case was filed by the relatives of the deceased in Motor Accident Claims Tribunal for granting compensation. That case was decided on 3.2.1987 awarding compensation of Rs. 25,000/-. The department after paying the award issued a chargesheet to the Driver and on conclusion of which a sum of Rs. 18,720/- was ordered to be recovered from the pay of the Driver. In that case it was held that notwithstanding the acquittal of the applicant therein by the Criminal Court on the benefit of doubt, the respondent department was within its rights to impose the penalty of recovery of the amount from the applicant. We do not consider it appropriate to record detailed reasons that has gone into in holding the above view. We are firmly of the view that the present case is squarely covered by our order dated 27.7.2001 passed in OA No.58/99 (supra) and the present application is liable to be dismissed.



6. For the detailed reasons recorded in our order dated 27.7.2001 passed in OA No. 58/99, this OA is dismissed with no order as to costs.



(GOPAL SINGH)

Adm. Member



(B.S. RAIKOTE)

Vice Chairman