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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No. 457/96

Date of order: 12/11/98

N.C.Ram, S/o Chhota Ramji, R/o of Village Post Meenawala, via Kanakpura Railway Station, Jaipur, presently working as Mazdoor, Canteen Stores Department, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. General Manager, Canteen & Stores Department, Govt. of India, ADELPHY, 119, Maharshi Karve Road, Bombay - 400 020.
3. The Manager, Canteen & Stores Department, Saiba Lines, Behind Military Hospital, Jaipur - 302006.

...Respondents.

Mr.R.N.Mathur) - Counsel for applicant.

Mr.P.P.Mathur)

Mr.M.Rafiq - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application filed under Sec.19 of the Administrative Tribunals Act, 1985, the prayer of the applicant is to quash and set aside the order dated 14.11.95 and to direct the respondents to pay the applicant the full pay and allowances for the period 29.10.86 to 15.4.88.

2. The facts of the case as stated by the applicant are that a false case was registered against the applicant on 23.10.1986 in Police Station Vishwakarma, Jaipur, under Sec.16/54 of the Rajasthan Excise Act and FIR No.144/86 was registered. The applicant was arrested whereby he was suspended from service by respondent No.2 w.e.f. 29.10.86. It is further submitted that the order of suspension of the applicant was revoked vide order dated 15.4.88 as the criminal case against the applicant was finalised and the applicant was acquitted. The applicant submitted a representation to respondent No.3 claiming full pay and other allowances during the period of suspension from 29.8.86 to 2.4.88 but with no result. Therefore, he has filed this O.A for the relief as mentioned above.

3. Reply was filed. In the reply, suspension of the applicant and revocation of suspension, as alleged by the applicant was admitted. But it

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is stated that the applicant was not entitled to full pay and allowances during the period of suspension because he was not acquitted honourably. The applicant was acquitted by giving him the benefit of doubt, therefore, he is not entitled to full pay and allowances in accordance with Rule 7 of Chapter 7 of the CCA Rules. In view of the above the respondents have submitted that the O.A is devoid of any merit and liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole records.

5. On a representation filed by the applicant, the respondents' department communicated to the applicant vide its letter dated 14.11.95, which is reproduced as below:

"Your reply has been examined by competent authority in detail and as you have not been acquitted by the Hon'ble Court on merit of this case, you are not entitled for full pay and allowances for the period of suspension from 29.10.86 to 24.8.88 as per provision of CCS(CCA) Rules, 1965. Further you have already been paid the maximum of subsistence allowance which cannot be further extended in this case."

6. The applicant was suspended because of his arrest in a criminal case under Sec.16/54 of the Rajasthan Excise Act registered against him and he was arrested in that case. The applicant was acquitted by the Criminal Court vide its judgment dated 14.9.94. Vide the judgment dated 14.9.94, the Criminal Court acquitted the accused for the offence under Sec.54 of the Rajasthan Excise Act. The words used in the order of the Criminal Court are reproduced below:

अतः अभियुक्त पुद्दाल सिंह, नरेश सिंह व
नारायण सिंह को चारा 54 राज. आब. अधि. के तहत
दण्डनीय अपराध के आरोप से सन्देह का लाभ देकर
दोष मुक्त किया जाता है। प्रकरण में जब्त वजह सबूत
आल्य वाद गुजरने मियाद अपील नष्ट हो।

7. After this judgment, the applicant was reinstated in service but he was not given back wages for the period of suspension on the ground that he was not acquitted honourably the criminal case registered against him. Hon'ble Apex Court in Krishnakant Raghunath Bihavnekar Vs. State of Maharashtra & Ors, 1997(2) SLJ 166 has observed that by virtue of acquittal in the criminal case the Govt servant is entitled to be reinstated but he is not entitled to consequential benefits with all back wages as a matter of course. The Hon'ble Supreme Court has observed as

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follows:

"In our considered view, this grant of consequential benefits with all backwages etc, can not be as a matter of course. We think that it would be deleterious to the maintenance of the discipline if a person suspended on valid considerations is given full backwages as a matter of course, on his acquittal. Two courses are open to the disciplinary authority viz. it may enquire into misconduct unless, the self-same conduct was subject of charge and on trial the acquittal was recorded on a positive finding that the accused did not commit the offence at all, but acquittal is not on benefit of doubt given. Appropriate action may be taken thereon. Even otherwise, the authority may, on reinstatement after following the principle of natural justice pass appropriate order including treating suspension period as period of not on duty."

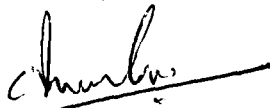
The Hon'ble Supreme Court has further observed that the purpose of prosecution of a public servant is to maintain discipline in service, integrity, honesty and truthful conduct in performance of public duty or for modulation of his conduct of further the efficiency in public service. The act of reinstatement sends ripples among the people in the office/locality and shows wrong signals for degeneration of morality, integrity and rightful conduct and efficient performance of public duty.

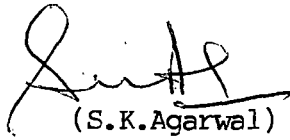
8. It is a settled position of law that if the criminal case ends in conviction then the period of suspension cannot be treated as period spent on duty and the applicant will not be entitled to full wages for that period. If the criminal case ends in honourable acquittal on merits then the applicant may be entitled to full wages for that period which of course will have to be decided by the competent authority. If it is a case of acquittal on technical ground or by giving benefit of doubt then again the competent authority will have to be decided as to any further departmental enquiry is necessary or not as observed by Hon'ble the Supreme Court in the above case.

9. In the instant case, as per the judgment mentioned above, the applicant was acquitted by giving him the benefit of doubt. Therefore, in view of the legal and settled position, the applicant was not entitled all back wages as a matter of course and we do not find any infirmity in the impugned order refusing back wages by the departmental authorities for the period of suspension to the applicant.

10. We, therefore, do not find any basis to allow the prayer of the applicant and this O.A is devoid of any merit, which is liable to be dismissed.

11. We, therefore, dismiss this O.A with no order as to costs.


(N.P. Nawani)
Member (A).


(S.K. Agarwal)
Member (J).