

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

May 1st 2006
6u
23/12

O.A. No. 545/2002
T.A. No.

199

Hukh
Hukh

DATE OF DECISION

Narain Lal

Petitioner

Mr. P.N. Jatti

Advocate for the Petitioner (s)

Versus

Union of India and two others

Respondent

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

The Hon'ble Mr. A.P. Nagrath, Administrative Member.

✓ 1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

On

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR.

Original Application No. 545/2002

Narain Lal
S/o Shri Narain
r/o Kadila
Extra Departmental Branch Post Master
Kadila
Via Avika Nagar,
Tonk Dist.

rep. by Mr. P.N. Jatti : Counsel for the applicant

-vs-

1. Union of India through the
Secretary to the Government
of India, Department of Posts,
Dak Bhawan,
Sansad Marg,
New Delhi.
2. Chief Post Master General,
Rajasthan Circle,
Jaipur 7
3. Superintendent of Post Offices,
Tonk Division,
Tonk.

: Respondents.

CORAM : The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman
The Hon'ble Mr. A.P. Nagrath, Administrative Member.

ORDER

Date of the order:

Per Mr. Justice G.L.Gupta:

24.12.01

The applicant was appointed as EDBPM,
Kadila, Tonk district. A police case was registered
against him under Sec. 409, 467 and 477 (A) of IPC.
Challan was also filed in the Criminal Court. The
applicant, however, has been acquitted by the
Criminal Court vide order dated 7.12.2001. Before



that the applicant had already been removed from service vide order dated 17.12.86. After the applicant was acquitted by the Criminal Court, he made a representation to the Superintendent of Post Offices, Tenk, to take him on duty. His application was rejected vide order dated 26.7.2002(Annex. A:1). Hence this O.A, praying for a direction to the respondents to take the applicant on duty with consequential benefits.

2. The contention of Mr. P.N. Jatti, the learned counsel for the applicant, is that when the applicant has been acquitted by the Criminal Court, he has right of re-instatement as the removal order was passed on the same allegations. He cited the judgement of the Apex Court in Capt. M. Paul Anthony, vs. Bharat Gold Mines Ltd and another (JT 1999 (2) SC 456) and the order of the Allahabad Bench of this Tribunal dated 22.3.2001 in O.A. No. 698/92 (Mohd Shakil vs. Union of India and others) published in Swamys News, February 2002 page 75.

3. We have gone through the judgements. The applicant was removed from service vide order dated 17.12.86. The FIR was lodged in the year 1988 which fact is evident from the copy of the order of the Criminal Court dated 7.12.2002. There is nothing on record to show that the removal order was passed ~~on~~ on the same set of facts which were stated against him in the criminal case.

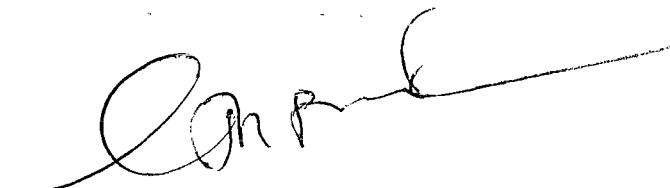


4. Moreover, the order of removal was passed pursuant to the departmental proceedings. When the applicant did not challenge the order within the period of limitation he cannot claim re-instatement after 15 years on the basis of the order passed by the Criminal Court in the year 2001. Apart from that, the Criminal Court has acquitted the applicant giving him the benefit of doubt. It is not the case where the applicant was honourably acquitted.

5. In the case of Capt. M. Paul Anthony (supra) it is nowhere laid down that when an employee is acquitted by the criminal court, the removal order passed against him long back should be re-called. Some principles have been laid down in the Judgement. They apply when the departmental proceedings and the criminal proceedings are conducted simultaneously. None of the principles stated in para 22 of the report applies to the instant case.

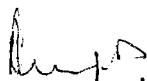
In the case of Mohd. Shakil (supra) also it was not laid down that when a delinquent official is acquitted by the Criminal Court the penalty order issued earlier should be re-called.

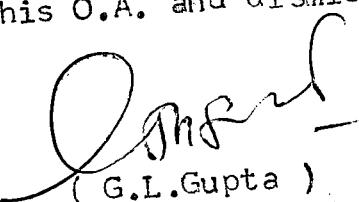
6. The nature and scope of criminal case is very different from that of departmental proceedings, and the order of acquittal in the criminal case, does not conclude the departmental proceedings. See: Nelson Motis vs Union of India (JT 1992 (5) SC 511). When it has been held that



on the basis of acquittal in the criminal case, departmental proceedings do not conclude, there cannot be any basis for arguing that on the basis of acquittal in the criminal case, the order of penalty should be re-called and that too after a lapse of 15 years.

7. In view of the above discussion, we do not find ~~any~~ merit in this O.A. and dismiss it in limine.


(A.P. Nagrath)
Administrative Member


(G.L. Gupta)
Vice Chairman.

jsv.