

Central Administrative Tribunal, Jabalpur Bench

O.A. No. 191 of 2005

Jabalpur this the 5th day of April, 2006

Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

Hon'ble Dr. G.C. Srivastava, Vice Chairman (A)

Brijendranath Shukla
S/o Kamta Prasad Shukla
Aged 52 years
R/o Bhagla, P.S. Churhat,
District Rewa (MP).

.....Applicant

By Advocate: Shri K.S. Lodhi.

Versus

1. Union of India through the
Secretary,
Post and Telegraph Department,
Parliament House,
New Delhi.

2. Superintendent (Post Master)
(Divisional Office),
Post and Telegraph Department,
Rewa, M.P.

3. Sub Post Master,
Post and Telegraph,
Post Office Bhilgarh,
District Rewa, M.P.

...Respondents

By Advocate: Shri A.P. Khare.

ORDER (ORAL)

By Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

The applicant had filed the present OA for grant of the following relief:-

- (i) That this Hon'ble court be pleased to issue directions, order to the respondent to reinstate the applicant on the post of Dakpal with all the back wages, and all the relevant benefits.
- (ii) Any other relief which this Hon'ble Tribunal deems fit and proper along with cost of the application.

2. The facts are short and simple. The applicant who was working as Dakpal was proceeded against in a disciplinary proceedings drawn for major penalty and as a consequence he was removed from service vide order dated 28.6.1990 by the disciplinary authority. The applicant did not challenge that order. Simultaneously a criminal case was also registered against him. He was convicted by the Trial Magistrate but in appeal he was acquitted vide order dated 29.9.2003. The applicant thereafter approached the

respondents for his reinstatement in service on the ground that he had been acquitted from the criminal charges by the court.

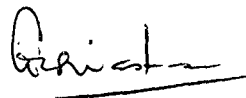
3. A preliminary objection has been raised on behalf of the respondents that the applicant cannot be reinstated in service so long as the order of the disciplinary authority dated 20th June, 1990 imposing the penalty of removal from service stands against the applicant. It is also submitted that the charges on which the disciplinary proceedings were conducted against him and the charges on which he was convicted by the Trial Court were different. It is further submitted that since the penalty imposed by the disciplinary authority is final, the applicant cannot be taken in service.

4. The learned counsel for the applicant further submitted that the applicant has been acquitted of the charges under Section 409 of the IPC on 29.9.203 by the Additional Sessions Judge and, therefore, he has become entitled to be reinstated in service.

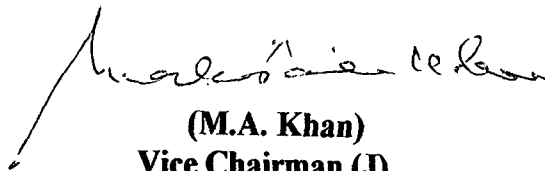
5. The order of penalty of removal from service was imposed against the applicant in 1990 and it has become final since it was not challenged before the appellate authority, revisional authority or before the Tribunal. The penalty of removal from service on the applicant was not imposed under clause (i) of Rule 19 of the CCS (CCA) Rules, 1965 and or any of other similar rule.

6. The order of the disciplinary authority under which he was removed from service was as per the rules and has attained finality. The applicant cannot seek his reinstatement in service simply because he has been acquitted in criminal proceedings. The disciplinary proceedings are decided on the basis of preponderance of probability whereas the criminal charge has to be proved beyond all reasonable doubt. Anyway the acquittal in criminal case will not automatically nullify the finality of the penalty order in the disciplinary proceedings.

7. Accordingly, we do not find any merit in this OA. It is accordingly, dismissed. The parties shall bear their own costs.


(Dr. G.C. Srivastava)
Vice Chairman (A)

Rakesh


(M.A. Khan)
Vice Chairman (J)

पुस्तक सं ओ/व्या.....जबलपुर, दि.....

पुस्तक सं ओ/व्या.....जबलपुर, दि.....

(1) सवि. पुस्तक सं ओ/व्या.....जबलपुर

(2) सवि. पुस्तक सं ओ/व्या.....के काउंसल

(3) सवि. पुस्तक सं ओ/व्या.....के काउंसल

(4) सवि. पुस्तक सं ओ/व्या.....के काउंसल

सूचना एवं आवश्यक कार्यवाही हेतु

सूचना एवं आवश्यक कार्यवाही हेतु

K.S. Lohi: D.V.B.P.

A.P. Khanna

D.V.B.P.

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21.6.06