

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT GWALIOR
Original Application No 250 of 2005

Indore, this the 17th day of November, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Amar Singh S/o Late Shri Chhote Lal,
Aged about 45 years, Occupation
Gang Man, N.C.R. Sheopur, R/o
Village Birkhadi, Tehsil & Post
Gohad, District Bhind (M.P.)

Applicant

(By Advocate – Shri R.P.Singh)

VERSUS

1. General Manager, Divisional Head Quarter
(DEN) North Central Railway, Nawab Yusuf
Road, Allahabad (U.P.)
2. Divisional Railway Manager (D.R.M.)
Division Jhansi (N.C.R.)
Jhansi (U.P.)
3. Assistant Divisional Engineer (N.G.)
North Central Railway, Gwalior,
Gwalior (M.P.).

Respondents

(By Advocate – Shri S.K. Jain)

ORDER

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main reliefs :-

“(A) That, the respondents may kindly be directed to make payment of arrears of due salary for the period between the date of acquittal and the date of joining on duty of applicant i.e. 16.11.2000 to 21.2.2004, increments and its arrears, Bonuses and payment of free duty pass etc. for the said intervening period from the date of removal to the date of joining.

(B) That, the interest at market rate on the said amount of due arrears whatever accrued as per rules as stated in para 1 may



also awarded to the applicant and respondents may kindly be directed to make the interest as per norms and rules to the applicant and also may kindly be directed to make payment of pay and allowances to the applicant and all other benefit as per rules, for intervening period and regularly in the years to come."

2. The brief facts of the case are that the applicant is presently working as a gangman. The services of the applicant were terminated on account of a criminal case registered against him under Section 333 of IPC in the year 2000 and he was convicted by the Fourth ADJ, Bhind. However he preferred an appeal against the said conviction before the Hon'ble High Court by filing a Criminal appeal No.658/2000. Vide order dated 25.9.2003 the Hon'ble High Court acquitted the applicant from the aforesaid conviction. Thereafter the applicant has joined his duties on the post of gangman and submitted a representation for providing all consequential benefits i.e. pay, due arrears of salary and increments etc. for the intervening period w.e.f. 16.11.2000 to 21.2.2004 i.e. from the date of dismissal from service to the date of joining of service. Till now the respondents have not given any payment to the applicant whereas he is legally entitled for all the consequential benefits. Hence, he approached this Tribunal.

3. Heard the learned counsel for the parties and carefully perused the records.

4. The learned counsel for the applicant has argued that the services of the applicant were terminated on 16.11.2000 from the post of Gangman on account of a criminal case pending against him. He was convicted by the Fourth ADJ, Bhind, however he preferred an appeal against the said conviction before the Hon'ble High Court by filing a Criminal appeal No.658/2000 and vide order dated 25.9.2003 the Hon'ble High Court acquitted the applicant from the aforesaid conviction. Thereafter the applicant has joined his duties on the post of gangman and submitted representation for providing all



consequential benefits i.e. pay, due arrears of salary and increments etc. for the intervening period w.e.f. 16.11.2000 to 21.2.2004 i.e. from the date of dismissal from service to the date of joining of service. In spite of submitting the representation, the respondents have not paid the consequential benefits. Thereafter the applicant served legal notice Annexure-A-4 through his lawyer, but the respondents have not considered the claim of the applicant whereas the applicant is legally entitled for the relief claimed. The learned counsel for the applicant has relied upon a judgment of the Hon'ble Supreme Court in the case of **Union of India and Ors. Vs. Jaipal Singh**, (2004) 1 SCC 121.

5. In reply, the learned counsel for the respondents argued that the applicant was punished by the Session Court of Bhind and he was dismissed from service on 16.11.2000 and on acquittal by the Hon'ble High Court, he was reinstated in service vide order dated 17.2.2004 (Annexure-R-1) and he joined his services on 21.2.2004. The applicant is not entitled for any arrears of pay and benefit after his reinstatement in service because the competent authority did not treat the intervening period as spent on duty and it was directed vide order dated 10.5.2005 that the intervening period of the applicant be treated as 'Dies-non'. Hence, the applicant is not entitled for any reliefs and the OA deserves to be allowed.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that a criminal case was registered against the applicant and he was punished by the Session Court of Bhind, therefore the services of the applicant have been terminated on 16.11.2000 by the respondents. Thereafter he filed an appeal against the judgement of the Session Court of Bhind in the Hon'ble High Court. On acquittal by the Hon'ble High Court, the applicant was reinstated in service vide order dated 17.2.2004 (Annexure-R-1) and he joined his services on 21.2.2004. Thereafter the respondents have passed another order dated 10.5.2005 regarding his intervening period



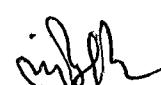
by which the intervening period of the applicant was treated as 'Dies-non' as he had not worked during the period of dismissal from service to reinstatement of service. We have carefully perused the judgment of the Hon'ble Supreme Court in the case *Jaipal Singh* (supra) wherein it has been held as under :-

"5. The respondent will be entitled to back wages from the date of acquittal and except for the purpose of denying the respondent actual payment of back wages, that period also will be counted as period of service, without any break."

Keeping in view of the aforesaid judgement, we are of the considered opinion ends of justice would be met if we direct the respondents to consider and decide the intervening period of the applicant according to the principle laid down by the Hon'ble Supreme Court in the aforesaid judgement within a period of three months from the date of receipt of a copy of this order. We do so accordingly.

7. In the result, the OA stands disposed of with the aforesaid directions. No costs.


(Madan Mohan)
 Judicial Member

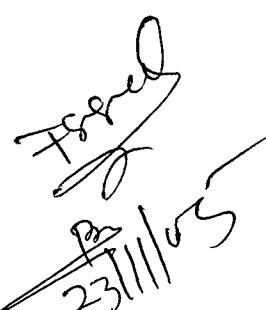

M.P. Singh)
 Vice Chairman

पृष्ठांकन सं. ओ/व्या.....जल्लपुर, दि.....
 प्रतिलिपि (प्राप्त) दिन:—

- (1) रामेश, उपराजनीकारक, जल्लपुर
- (2) लालेश, उपराजनीकारक, जल्लपुर
- (3) पार्यवी, उपराजनीकारक, जल्लपुर
- (4) चंद्रपाल, उपराजनीकारक, जल्लपुर

सूचना एवं आवश्यक दस्तावेजों के

क्रमांक
 उपराजनीकारक


 23/11/05


 J.K. Jaiswal