

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 1157 of 2005

Jabalpur, this the 3rd day of January, 2006

Hon'ble Shri Justice P.K. Sinha, Vice Chairman

Arun Kumar, S/o. Kanti Kumar Shukla,
Aged 47 years, Occ : Stenographer in
Rangers' College, Presently under dismissal
R/o. 105, Ashra Apartment, Near Happy
Health Club, Opp. Gulate Petrol Pump,
Prem Nagar, Madan Mahal, Jabalpur. Applicant

(By Advocate – Shri S.K. Dixit)

V e r s u s

1. Union of India, through the Secretary,
Ministry of Environment and Forests,
CGO Complex, Paryavaran Bhawan,
Lodhi Road, New Delhi-110003.
2. The Director General, Indian Council
Of Forestry Research and Education,
P.O. New Forest,
Dehradun – 248006 (Uttaranchal).
3. The Director, Tropical Forests Research
Institute, P.O. R.F.R.C. Mandla Road,
Jabalpur, MP. Respondents

(By Advocate – Shri S.A. Dharmadhikari)

O R D E R (Oral)

Heard.

2. The admitted position is that the applicant's services were terminated after his conviction in a criminal case. But thereafter he preferred an appeal before the Hon'ble High Court of Madhya Pradesh at Jabalpur in Criminal Appeal No. 464/90 (Annexure A-2). The said appeal was allowed and the conviction and sentence were set aside. Thereafter

File

the applicant filed an application before the authorities vide Annexure A-3 and A-4 for his reinstatement with consequential benefits. The learned counsel for the respondents pointed out that the representation of the applicant was forwarded to the respondent No. 2 by the respondent No. 3 vide order dated 27.6.2005 (Annexure A-5) for a decision and a reminder was also sent vide Annexure A-8, but the final decision in that regard has not been taken.

3. In the case of Sham Singh Vs. Punjab State, through Collector, Faridkot, 2005(2) ATJ 14, his lordship of Punjab and Haryana High Court had considered the question primarily as to whether a notice was needed to terminate the services of an employee who was convicted in a criminal case by a competent court of law. In that judgment certain decisions of the Apex Court were also considered in that context. One of the judgments so considered was of the case of Deputy Director of Collegiate Education (Administration), Madras Vs. S. Nagoor Meera, AIR 1995 SC 1364, in which their lordships of the Apex Court held that in such cases the services could be terminated without issuance of notices under Clause (a) of the second proviso to Article 311(2) of the Constitution of India. But if in appeal such an employee is acquitted, then what to do in such cases has also been dealt with in this judgment, which is reproduced below :

“The more appropriate course in all such cases is to take action under Clause (a) of the second proviso to Article 311(2) once a government servant is convicted of a criminal charge and not to wait for the appeal or revision, as the case may be. If, however, the government servant-accused is acquitted on appeal or other proceeding, the order can always be revised and if the government servant is reinstated, he will be entitled to all the benefits to which he would have been entitled to had he continued in service.”

Obviously, since the applicant's services were terminated, no departmental proceedings is pending against him.

Sham Singh

4. Since, as submitted, the applicant's services were terminated only on the ground of his conviction by a court of law in a criminal case, that basis is no longer available to keep him out of service, as he has been acquitted by the appellate court.

5. The matter appears to be already under consideration and thus this application is disposed of by directing the respondent No. 2 i.e. the Director General, Indian Council of Forestry Research and Education, P.O. New Forest, Dehradun (Uttaranchal) to consider and dispose of the representations of the applicant which are said to have been submitted and pending before him, within a period of two months of the receipt of a copy of the order also taking into consideration what has been observed in the order of the apex court that has been noticed in this order. If the applicant is reinstated in service, the respondents will also consider the consequential benefits to be given to the applicant, within the same period, in accordance with law. However, if for any other legal reason that is not covered by this application, the concerned authority decides not to reinstate the applicant then he will record a speaking and reasoned order for that, within the said period.

6. With the above observation and the directions, this application is disposed of.

[Handwritten signature]

(P.K. Sinha)
Vice Chairman

“SA” पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पत्रिलिपि अर्जित:-

"SA"

(1) सचिव, उच्च न्यायालय राय P. सेमिलान, जबलपुर

(3) आदेश नं. १३३३, जवलापुर

(2) आवेक श्री. प्रदीप सिंह

(3) प्रत्यक्षी $\frac{1}{2} \times \frac{1}{2} \times \frac{1}{2}$ जे का

(4) बंधुवाला, के राजा, ... के का

सूचना एवं आवश्यक कार्रवाई हेतु

सूचना एवं आचार्यक कायदा १९८०

उप सजिस्ट्रार

ਸ. ਕ. ਲਿਖਤ ਪੁਸਤਕ

S. A. Othman-Lurken

AN 030

उप सचिव

5.1.06