

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 377 of 2003

Jabalpur, this the 16th day of September 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. A.K. Bhatnagar, Judicial Member

Jagdish Prasad Soni S/o
Late Ramnath Soni aged about
54 years, Machinist (Skilled),
Ticket No.126(Now) Personal
No.317 M.P. Section Ordnance
Factory, Katni, R/o New Kelwar
Level crossing, Jagmohan Das
Ward Katni (M.P.)

APPLICANT

(By Advocate - Shri Rajendra Shrivastava)

VERSUS

1. Union of India,
through its Secretary
Ministry of Defence (Production)
Govt. of India, New Delhi.
2. Chairman/Director General
Ordnance Factories Board,
10-A S.K. Bose Road,
Kolkatta.
3. General Manager,
Ordnance Factory,
Katni (M.P.)

RESPONDENTS

(By Advocate - Shri P. Shankaran)

ORDER (ORAL)

By M.P. Singh, Vice Chairman -

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

"(i) to quash the impugned order of the Respondent No.3 dt. 24.5.2003 (Annexure A/9) in its entirety.

(ii) to command the respondents to pay the applicant his entire backwages from 31.10.95 to 30.6.97 with interest as directed by the Hon'ble Tribunal in OA 491/98."

2. The brief facts of the case are that the applicant while working as Machinist (Skilled) in Ordnance Factory Katni, was involved in a criminal case under Section 381 read with Section 34 of the IPC. The Judicial Magistrate, First Class, Katni convicted the applicant

[Signature]

under the aforesaid Sections and sentenced him to rigorous imprisonment for one year and a fine of Rs.1000/- Against the said order of the Judicial Magistrate, the applicant has preferred an appeal before the 1st Additional District & Sessions Judge, Katni, and on admission of the appeal, the applicant was enlarged on bail. On conviction of the applicant by the Judicial Magistrate, the disciplinary authority issued a show cause notice under Rule 19 of the CCS(CCA)Rules, 1965 vide memo dated 19.9.1995. After considering the reply of the applicant, the disciplinary authority imposed the penalty of dismissal from service on the applicant vide order dated 31.10.1995. Subsequently, the appeal filed by the applicant against his conviction was decided and he was acquitted of the charges on account of absence of sufficient evidence to prove the charges beyond doubt. Because of his acquittal from the criminal charges, the applicant was reinstated in service vide order dated 26.6.1997. The period of absence from 31.10.1995 to 26.6.1997 was covered by grant of leave as due. vide order dated 12.9.1997. The applicant had challenged the said order dated 12.9.1997 by filing an appeal, which was also considered and rejected by the competent authority. The applicant challenged this order before this Tribunal by filing OA 491/1998 which was disposed of vide order dated 27.2.2003. The disciplinary authority in compliance with the direction of the Tribunal reconsidered the matter with due application of mind and passed the order dated 24.5.2003 (Annexure-A-9) holding that the applicant is not entitled to back wages w.e.f. 31.10.1995 to 25.6.1997. This order dated 24.5.2003 has now been challenged through the instant OA.

3. Heard the learned counsel of both the parties. The the Tribunal in the earlier OA remanded the matter to see learned counsel for the applicant has stated that whether the applicant has been fully exonerated by the criminal court or was acquitted on technical ground or was given the benefit of doubt, and if it was found that the applicant has been fully exonerated then he would be entitled to full pay and



allowances. He has also stated that the applicant has been exonerated of the criminal charges levelled against him without any doubt. This amounts to acquittal on merits and not on technical grounds. The learned counsel has further submitted that the applicant has been honourably acquitted by the Additional District & Sessions Judge, therefore, he is entitled for the full pay and allowances for the entire period.

4. The learned counsel for the respondents on the other hand has stated that as the criminal offence committed by the applicant was not in performance of his official duties. Therefore, in view of the decision of the Hon'ble Supreme Court in the case of Union of India & ors Vs. Jaipal Singh, 2004 SCC(L&S)12 the applicant is not entitled to any back wages.

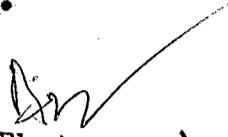
5. We have given careful consideration to the rival contentions. We find that the only issue which is to be considered by us is whether the applicant is entitled for the full pay and allowances during the period he remained out of service due to his involvement in the criminal case. Their Lordships in the case of Jaipal Singh (supra) have held as under-

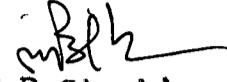
"4....if as a citizen the employee or a public servant got involved in a criminal case and if after initial conviction by the trial court, he gets acquittal on appeal subsequently, the department cannot in any manner be found fault with for having kept him out of service, since the law obliges a person convicted of an offence to be so kept out and not to be retained in service.....the appellants are well within their rights to deny back wages to the respondent for the period he was not in service. The appellants cannot be made liable to pay for the period for which they could not avail of the services of the respondent."

It is an admitted position that the involvement of the applicant in the criminal case was not due to performance of his official duties but due to his own acts. Therefore, in view of the decision of the Hon'ble Supreme Court in the case of Jaipal Singh (supra), the applicant is not entitled to get any relief in this OA.

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6. In the result, for the reasons recorded above, the O.A. is dismissed, however, without any order as to costs.


(A.K.Bhatnagar)
Judicial Member


(M.P.Singh)
Vice Chairman

rkv.

पृष्ठांकन सं. ओ/ज्या. जदलपुर, दि.
चलितिपि अव्ये दिन—

- (1) रामेश, उमा अमरकाला दादा दि. १५/१०/०४, जदलपुर
- (2) रामेश, उमा अमरकाला दादा दि. १५/१०/०४, जदलपुर
- (3) रामेश, उमा अमरकाला दादा दि. १५/१०/०४, जदलपुर
- (4) रामेश, उमा अमरकाला दादा दि. १५/१०/०४, जदलपुर

सूचना एवं आवश्यक कार्यवाही हेतु

२०५०/२०५१/०१०५/०५०

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Issued
On 10.11.04
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