

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR

(1) O.A.No. 110 of 1991

Ram Kumar Yadav Applicant

Versus

Union of India & Others..... Respondents

(2) O.A.No. 698 of 1990

Rajaram Applicant

Versus

Union of India & Others..... Respondents

Counsel

Shri Sanjay Yadav for the applicant(O.A.No.110/91)

Shri B.Da Silva for the respondents in both cases

Coram

Hon'ble Shri D.K.Agrawal,V.C.

Hon'ble Shri R.Hariharan,M(A)

GRAL JUDGMENT

(Delivered on this the 6th day of February,1995)

The facts and the principle of law involved in both the above cases are identical. Therefore we propose to dispose them of by one common judgment.

2. The facts are that the above named two applicants Ram Kumar Yadav and Rajaram were suspended during the pendency of a criminal case against them for the offence of murder. They were given benefit of doubt and acquitted. Thereafter the competent authority restricted the pay and allowances during the period of suspension. They challenged the action of the competent authority. Since the question of law was involved, the matter was referred to Larger Bench. The questions were reframed by the Larger Bench as follows and answered as noted against them.

| <u>Question</u> | <u>Answer</u> |
|---|---------------|
| (i) Whether a Govt.servant is entitled as a matter of right to payment of full salary and allowances for the period he remains under suspension on account of criminal charge which ends in his acquittal by giving him the benefit of doubt? | No |

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(ii) Whether in view of F.R.54-B it is competent for the concerned authority to deny payment of full salary and allowances for the aforesaid period on a consideration of the totality of circumstances including the fact that the acquittal was made by giving the benefit of doubt?

Yes

3. In view of the decision of the Larger Bench, no doubt can be entertained that the competent authority has jurisdiction under F.R. 54-B to deny payment of full salary and allowances for the period of suspension on a consideration of the totality of circumstances. In both the case we find that the applicants have been acquitted because the case was not beyond reasonable doubt against them. The standard of proof required in a criminal case if not available, the accused persons are liable to be acquitted. However, acquittal on these grounds has no nexus with the suspension. If there is no finding that the F.I.R. was false or the prosecution itself was without foundation, the order of suspension cannot be held to be unjustified. Therefore the competent authority has only to determine if the suspension order is justified unless there is material to hold that the suspension order is unjustified, the power of competent authority under F.R. 54-B restricting the payment of the subsistence allowance already paid or any other amount is not fettered under law. Taking into account these principles, we do not find any ground to interfere with the order of the competent authority denying payment of full Pay & Allowances to the applicants. Therefore we are of the opinion that these petitions are liable to be dismissed.

4. In the result the petitions are dismissed without any order as to costs.

R. Hariharan
(R. Hariharan) 06/02/95
Member(A)

D.K. Agrawal
6.2.95
(D.K. Agrawal)
Vice Chairman