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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 25 of 1998

Jabalpur, this the 5th day of February, 2003.

Hon'ble Mr. Justice N.N. Singh- Vice Chairman  
Hon'ble Mr. R.K. Upadhyaya- Member (Admnv.)

Punnulal Lodhi, aged about 53 years,  
S/o Dulichand, Carpenter (Skilled),  
Carpenter Section, Gun Carriage  
Factory, Jabalpur (MP)

-APPLICANT

(By Advocate- Mr. S. Nagu)

Versus

1. Union of India through  
Secretary, Department of Defence  
Production, South Block, New Delhi.
2. The General Manager,  
Gun Carriage Factory,  
Jabalpur (MP)

-RESPONDENTS

(By Advocate- Mr. S.C. Sharma)

O R D E R

By R.K. Upadhyaya, Member (Admnv.):

The applicant is aggrieved by the order dated 26.3.1997 (Annexure A-4) by which he has been informed that in spite of his acquittal in criminal case, he will not be treated on duty with effect from 21.3.1994 to 9.3.1997.

2. It is stated by the applicant that he was initially appointed in 1966 as a Labour under the respondent No. 2. In due course, he was promoted and was working as skilled cadre in the trade of Carpenter. In the night intervening 9.2.1994 and 10.2.1994, the applicant alongwith three others was implicated in an incident, which gave rise to registration of an offence punishable under sections 307/34 Indian Penal Code, which was subsequently registered

as S.T.No.573/1994. This S.T. was decided by judgement dated 26.2.1997 delivered by the Additional Sessions Judge, Jabalpur, by which the applicant was acquitted of the aforesaid charges, as the prosecution could not prove offence beyond reasonable doubt. Since the applicant was detained in police custody for a period exceeding 48 hours, he was placed under suspension by order dated 21.3.1994. It is claimed by the applicant that he had received 50% of admissible salary as subsistence allowance for the period from 21.3.1994 to 9.3.1997. The learned counsel for the applicant stated that the applicant has been reinstated in service, but the period of suspension from 21.3.1994 to 9.3.1997 has not been treated as spent on duty by the impugned order dated 26.8.1997 (Annexure A/4). It was further pointed out by the learned counsel that another co-accused namely Dumarilal alias Bhagwandas was also charged of the criminal offence and acquitted by the same order of the Court and has been treated as on duty during the suspension period. In this connection, he invited attention to the copy of order dated 29.9.1997 (Annexure A-6) passed by the General Manager, Vehicle Factory, Jabalpur. This order further states that the employee will be entitled to full wages for the period of his suspension. It was, therefore, urged that similar order should have been passed by the respondents in the case of the applicant also. It was, therefore, urged that the respondents be directed to do so now.

3. The respondents in their reply have invited attention to the Full Bench decision of this Tribunal in OA No.110 of 1991 and OA No.698 of 1990, in which this Tribunal by order dated 30.12.1994 has held that a government servant

is not entitled for full pay and allowances for the period he remains under suspension on account of criminal charge, which ends in his acquittal by giving benefit of doubt, as a matter of right. Reference has also been made by the respondents to the decision of Hon'ble Supreme Court in the case of Krishna Kant Raghunath, 1997 SCC L&S 847. In this case, according to the respondents, it is the disciplinary authority which has to apply its mind to the facts and circumstances of each and every case while considering the question of grant of pay and allowances for the period of suspension. According to the respondents, the Criminal Court has acquitted the applicant by giving him the benefit of doubt, as the prosecution could not prove the offence against the applicant beyond all reasonable doubts. It was, therefore, urged that this petition being devoid of any merit deserves to be dismissed. The learned counsel stated that the law should be made applicable in each case and if wrong decision has been taken in some other case that should not be made applicable in the case of the applicant.

4. Learned counsel of both the parties have been heard and the materials available on record have been perused carefully.

5. The applicant was placed under suspension by an order dated 21.3.1994. He was also paid 50% of admissible salary during the period of suspension. The Criminal Court of VIIth Additional Sessions Judge, Jabalpur by order dated 26.2.1997 has acquitted the applicant, as the offence against the applicant could not be proved beyond reasonable doubt and he was given the benefit of doubt. A perusal of the order of the Court indicates that it is

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not clean and clear acquittal. He has been given benefit of doubt and has been acquitted for want of evidence to prove his guilt beyond reasonable doubt. In these circumstances, the decision of Full Bench of this Tribunal in the case of Ram Kumar Yadav Vs. Union of India (O.A. No.110/1991) and Rajaram @ Rajju Prasad Kol Vs. Union of India & another (O.A.No.698/1990) decided on 20.12.1994 is squarely applicable. It is for the competent authority <sup>made</sup> to decide as to what payment should be ~~in~~ in the circumstances of the case during the suspension period of the applicant. There is no legal infirmity in the order passed by the respondents. Therefore, no interference is called for. In this view of the matter, this application is dismissed without any order as to costs.

(R.K.Upadhyaya)  
Member (Admnv.)

(N.N.Singh)  
Vice Chairman

'MA'

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प्रांतकान सं ओ/व्या..... जबलपुर, दि.....  
पतिलिपि अद्यो बिल :—  
(1) सदिक, उच्च व्यापाराला वार एसोसिएशन, जबलपुर  
(2) आमदार ओ/व्या/कु..... के काउंसल  
(3) लालामो ओ/व्या/कु..... के काउंसल  
(4) व्यापार, व्योपाल, जबलपुर व्यायामीठ  
सूचना एवं आदरणक कार्यवाही हेतु

SC 6961-A/10

SC Sharma-A/10

अप संस्कार  
Signature  
5/2/03

Issued  
5/2/03  
Cw