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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

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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 recieved 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 suspesion. 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

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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 VIth 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 made to decide as to what payment should be/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)
(R.K. Upadhyaya)
Member (Admnv.)

(N.N. Singh)
(N.N. Singh)
Vice Chairman

'MA'

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पृष्ठान्त सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अर्पित:-
(1) सचिव, उच्च न्यायालय नगर एसोसिएशन, जबलपुर
(2) आचार्य श्री/सचिव/कु.....के कार्यालय
(3) आचार्य श्री/सचिव/कु.....के कार्यालय
(4) वायसराय, कोषा. जबलपुर न्यायाधीश
सूचना एवं आवश्यक कार्यवाही हेतु
उप निदेश
Sharma
SC Sharma

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BS