

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 1st day of August, 2011

OA No. 283/2009

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Karodi s/o Gulab
r/o Vill.Idath Madthpur,
Post Office Gazipur,
Distt. Bharatpur, at present
Employed on the post of Gangman under
Chief Permanent Way Inspector,
Hindon, Engineering Department in
Western Central Railway,
Kota.

... Applicant

(By Advocate : Shri Shiv Kumar)

Versus

1. Union of India through General Manager,
Western Central Railway,
Jabalpur.
2. Senior Divisional Engineer (North),
Kota, Western Central Railway,
Kota Division, Kota
3. Senior Section Engineer (P Way),
Hindon City,
Western Central Railway,
Kota Division,
Hindon.

... Respondents

(By Advocate : Shri Hawa Singh)

ORDER (ORAL)

Brief facts of the case are that the applicant was implicated in criminal case and FIR under Section 148, 302, 307, 323, 324 read with Section 149 and 460 of IPC was registered on 11.10.1996. The criminal trial was conducted and the applicant and other persons were convicted by the trial court for the aforesaid charges vide judgment dated 13.12.2001. Due to conviction in the aforesaid case, the applicant remained under deemed suspension as per rules and was also removed from service under Rule 14(i) of Railway Servants (Discipline and Appeal) Rules 1968 on 26.7.2003. The applicant remained under deemed suspension from 13.12.2001 till his removal from service i.e. 26.7.2003 and during suspension period no subsistence allowance was paid to the applicant.

2. The applicant alongwith other persons filed appeal before the Rajasthan High Court, Jaipur against the judgment passed by the trial court. The appeal has been decided by the Hon'ble High Court vide judgment dated 12.9.2007 and the applicant has been acquitted/fully exonerated from all



the charges on merit and on account of acquittal, the applicant was reinstated back in service.

3. Now only controversy remains with regard to the period during which the applicant remained under suspension from 13.12.2001 till his removal from service i.e. 26.7.2003 and the period from removal to reinstatement.

4. The learned counsel appearing for the respondents has not been able to point out any judgment or rule that in case of acquittal from the charges why the aforesaid period cannot be regularized as spent on duty. On the contrary, Rule 1343 Sub rule (2) of the Indian Railway Establishment Code Vol.II has been referred which is reproduced as under:-

"1343 (F.R.54).- (1).....

(2) Where the authority competent to order reinstatement is of opinion that the railway servant who had been dismissed, removed or compulsorily retired has been fully exonerated the railway servant shall, subject to the provisions of sub-rule (6), be paid the full pay and allowances to which he would have entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be."

As per sub-rule (2) of Indian Railway Establishment Code Vol.II it is provided that where the authority competent to order reinstatement is of opinion that the railway servant who had been dismissed, removed or compulsorily retired has been fully exonerated the railway servant shall, subject to the



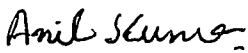
provisions of sub-rule (6) be paid full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be.

5. In the case of Pramod Kumar Jha vs. State and ors., reported in 2009 Western Law Cases (Raj. Page 599, the Hon'ble Rajasthan High Court has observed that dismissal based only on conviction which being set-aside, the employee is held entitled for reinstatement.

6. It is not disputed here that the applicant on acquittal has been reinstated, therefore, in our considered view, he is entitled to get all the consequential benefits.

7. Consequently, we deem it proper to direct the respondents to treat the period during which the applicant remained under deemed suspension and the period from removal to reinstatement in accordance with provisions of Rule 1343 of the Indian Railway Establishment Code, Vol.II and the instructions issued from time to time on the subject.

8. With these observations, the OA stands disposed of with no order as to costs.


(ANIL KUMAR)
Admv. Member


(JUSTICE K.S.RATHORE)
Judl. Member