

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

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OA No. 060/01002/2014 Date of decision- 16.04.2015

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

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Abhyandra Kumar Gupta, Ex-Executive Engineer (Works & Establishment), Engineering Department, Office of Chief Engineer, Chandigarh Administration, U.T. Chandigarh, Resident of H. No. 262, NAC, Manimajra, Chandigarh.

...APPLICANT

BY ADVOCATE : Sh. Barjesh Mittal

VERSUS

1. U.T. Chandigarh Administration through its Administrator, U.T, Chandigarh, Punjab Raj Bhawan, Chandigarh.
2. Advisor to the Administrator, Chandigarh Administration, U.T. Secretariat, Sector 9, Chandigarh.
3. Finance Secretary-cum-Secretary Engineering, Engineering Department, Chandigarh Administration, U.T. Secretariat, Sector-9, Chandigarh.
4. Chief Engineer, Chandigarh Administration, U.T. Secretariat, Sector 9, Chandigarh.

...RESPONDENTS

BY ADVOCATE: Sh. Aseem Rai

ORDER

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

The present O.A is directed against the order dated 10.05.1999 vide which he was dismissed from service on his conviction in a criminal case and order dated 12.06.2014 vide which applicant's representation dated 01.11.2013 for reinstatement in service pursuant to acquittal in criminal appeal, was rejected.

2. Suffice to record herein that the applicant was initially appointed as Assistant Engineer (designs) with the respondent department in year 1975. He was subsequently promoted as Executive Engineer in the year 1984 and was confirmed in the rank of Executive Engineer (Civil) on 25.01.1986. Thereafter, he was further promoted as Superintending Engineer (Construction Circle) on current duty charge basis on 10.11.1990. While working with respondent department, an FIR No. 2 dated 19.06.1992 under Section 418, 420, 477, 120-B IPC read with Section 13 (1) (c) and (2) of Prevention of Corruption Act, 1986 was registered against four persons including the applicant. Thereafter, he was placed under suspension. He was issued a charge sheet dated 15.01.1993 under Rule 8 of the Punjab Civil Services (Punishment & Appeal) Rules, 1970 (in short ' 1970 Rules) which was replied to by the applicant. Thereafter, the applicant was reinstated in

service vide order dated 28.09.1993. Vide order dated 28.02.1998, the learned Special Judge convicted the applicant including others in the Criminal Case with punishment of rigorous imprisonment for a period of two years with fine of Rs. 2000/- each. Aggrieved by the above order, the applicant and the others filed Criminal Appeal No. 191-SB-1998 before the Hon'ble Jurisdictional High Court which was admitted vide order 11.03.1998. Based upon the conviction by the Learned Special Judge Chandigarh the department imposed the penalty of dismissal from service upon the applicant under Rule 13 of the Punjab Civil Services (Punishment & Appeal) Rules, 1970. Aggrieved against the action of the respondents, the applicant filed O.A No. 444/CH/1999 seeking quashing of order dated 10.05.1999. On the same ground, other officials, against whom FIR was registered also approached this Tribunal by filing O.A No. 451/CH/1999, O.A No. 446/CH/1999 and O.A No. 452/CH/1999. The same were disposed of vide a common order dated 09.05.2002 wherein the applicants were granted liberty to agitate the matter again after the decision in the pending criminal case. Thereafter, the appeal was allowed vide order dated 23.08.2013 in favour of the applicant and he was acquitted of the charges framed against him by setting-aside the judgment dated 28.02.1998 passed by the Special Judge. Based upon the liberty as granted by this Tribunal after the acquittal from the charges, the applicant moved a

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representation dated 28.10.2013 before respondents no. 1 & 2 followed by reminders requesting them to take him back in service as ground of dismissal prevalent at that time, stood washed away. When no action was taken by them then the applicant submitted another representation dated 06.02.2014 to Secretary Engineering-cum-Finance Secretary, Chandigarh Administration on the same lines. Thereafter, the respondents passed the impugned order dated 12.06.2014 by recording findings that in view of the advice tendered by the Vigilance Department, UT, Chandigarh, his request for reinstatement in service has been rejected. Hence, the present O.A.

3. Pursuant to notice, the respondents contested the claim of the applicant by filing detailed written statement wherein it is submitted that the respondents have decided to challenge the acquittal order of the Hon'ble High Court before the Hon'ble Supreme Court, therefore, at this stage, they could not reinstate the applicant in service.

4. We have heard Sh. Barjesh Mittal, learned counsel for the applicant and Sh. Aseem Rai, learned counsel for the respondents.

5. Sh. Barjesh Mittal, learned counsel for the applicant submits that the impugned order does not sustain in the eyes of law as after the acquittal from the criminal case, the respondents had to revisit the case of the applicant and merely filing of SLP would not give right to the respondents to keep the applicant away from service. To cut short

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his arguments, he submitted that a similar controversy, as raised in the instant O.A., has already been set at rest by this Tribunal in O.A No. 060/00612/2014 titled **Baljinder Singh Vs. U.O.I. & Ors.** decided on 18.11.2014 wherein after recording the observation in favour of the applicant, the impugned order was quashed and set aside and matter was remitted back to the respondents to reconsider the case of the applicant. In that case, the respondents have now complied with the order and have decided to reinstate the applicant (therein) in service, subject to the final outcome of the SLP filed by the administration against the acquittal order. He prays that the present O.A may be disposed of with a direction to the respondents to consider the case of the applicant in the light of the decision taken in case of Baljinder Singh (supra).

6. Sh. Aseem Rai, learned counsel for the respondents does not object to the disposal of the O.A in the requested manner and admits the fact that a similar O.A has already been decided by this Tribunal in which the respondents have decided to reinstate the applicant in service subject to the final outcome of the SLP. He submitted that the respondents will also consider his case in the light of the decision taken in the case of Baljinder Singh (supra).

7. Considering the consensual agreement reached between the parties coupled with the fact that identical issue has already been

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decided, we quash and set aside the impugned order dated 12.06.2014. The matter is remitted back to the respondents with a direction to reconsider the case of the applicant in the light of the decision taken in case of Baljinder Singh (supra), within three months from the date of receipt of a certified copy of the order.

8. With the observations and directions as above, this O.A. stands disposed of.

9. No costs.

(UDAY KUMAR VARMA)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 16.04.2015

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