

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CHANDIGARH**

O.A. No. 060/00562/2014

Decided on: 09.07.2014

**Coram: Hon'ble Mr. Sanjeev Kaushik, Member (J)
Hon'ble Mr. Uday Kumar Varma , Member (A)**

Ashok Kumar son of Sh. Rattan Singh Hooda resident of Village and Post Office Baland District Rohtak.

**.....Applicant
Versus**

1. Union of India through the Secretary Postal and Telegraph Department, Government of India, New Delhi.
2. Senior Superintendent Post Office, Rohtak Division, Rohtak.

.....Respondents

Present: Mr. Rajnish Gupta, counsel for the applicant
Mrs. Mohinder Gupta, counsel for the respondents

Order (oral)

By Hon'ble Mr. Sanjeev Kaushik, Member(J)

1. By way of the present O.A., the applicant has sought issuance of directions to the respondents to reinstate him and allow him to join with all consequential benefits.
2. In support of the above contention, learned counsel for the applicant submits that a criminal case was registered against the applicant vide FIR No. 204 dated 10.10.2004 under Sections 406/409/420 IPC Police Station Sadar Rohtak. On the same set of charges, the applicant has also been charge-sheeted vide charge-sheet dated 17.02.2003. Without awaiting the outcome of the

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criminal case, a Departmental Inquiry was initiated and ultimately vide order dated 28.01.2004, the applicant was dismissed from service. In the criminal case, the applicant was honourably acquitted, vide order dated 17.01.2012. The applicant, after his acquittal, submitted his joining report dated 09.01.2014 to the respondents but the same has not been accepted which compelled him to approach this Tribunal. Learned counsel submits that the case of the applicant has to be re-considered in the light of acquittal by the Criminal Court. Reliance in this regard has been placed upon a judgment passed by the Jurisdictional High Court in the case of **Rajinder Singh and another Vs. U.T. Chandigarh and others (CWP No. 19146/2011** wherein it has been held that the administrative authority has to re-examine the case of punishment on his acquittal from the Criminal Court. He further submits that the applicant will be satisfied if the O.A. is disposed of with a direction to the respondents to consider his claim and take a view in the light of judgment dated 17.01.2012.

3. In view of the limited prayer of the applicant, there is no need to issue notice to the respondents and call for their reply. However, Mrs. Mohinder Gupta, learned Standing Counsel for the respondents, who is present in the Court, appears. She states that she has no objection to the disposal of the O.A. in the requested manner.
4. We have given our thoughtful consideration to the matter and gone through the judgment passed in the case of Rajinder Singh and Another(supra) and of the view that the respondents have to consider afresh the case of the

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applicant in the light of the judgment passed by the Criminal Court vide which he has been acquitted honourably. The relevant operative portion of the judgment dated 08.02.2013 passed in the case of Rajinder Singh(supra) is reproduced herein below:

"In our considered view, the matter requires re-consideration, especially on the quantum of punishment by the Competent Authority/Revisional Authority as the case may be at least for the following two reasons:-

(i)It is well established that an order of dismissal from service under Clause (a) of Proviso to Article 311(2) of the Constitution cannot be passed only on the basis of conviction, rather the conduct of the person which led to his conviction on a criminal charge will have to be kept in view.

(ii)Section 12 of the Probation of Offenders Act, 1958, starts with a non-obstante clause and it says that notwithstanding anything contained in any other law, a person found guilty of any offence and dealt with under the provisions of Section 3 or section 4 shall not suffer disqualification if any, attaching to a conviction of offence under such law.

The length of service and previous service record can also be kept in view while determining the nature of punishment.

Since the aforesaid aspects were apparently not considered while dismissing the petitioners from service especially Section 12 of the Probation of Offenders Act, 1958, let the matter be placed before the Inspector General of Police, U.T. Chandigarh for an appropriate reconsideration within a period of three months from the date of receipt of certified copy of this order."

5. Accordingly, the O.A. is disposed of, with a direction to the Competent Authority amongst the respondents to re-consider the case of the applicant and take a view thereon in the light of judgment dated 17.01.2012

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passed by the Criminal Court as well as the law settled by the Hon'ble High Court in the case of Rajinder Singh & Another (supra), within two months from the date of receipt of a copy of this order.

6. Needless to say that we have not expressed our opinion about the merits of the case.

7. No costs.

Uday Kumar Varma
(UDAY KUMAR VARMA)
MEMBER (A)

PLACE: Chandigarh
Dated: 09.07.2014

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Sanjeev Kaushik
(SANJEEV KAUSHIK)
MEMBER (J)