

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

OA No. 060/00817/2014

Date of decision- 20.04.2015.

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

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Surjit Singh Birdi (SDE), R/o 3235/2, Sector 44-D, Chandigarh.

...APPLICANT

BY ADVOCATE : Sh. Yogesh Putney, Advocate vice Sh. Madan Mohan,
Advocate.

VERSUS

1. Adviser to Administrator-cum-Chief Vigilance Officer,
Chandigarh, Administration, U.T. Chandigarh.
2. Secretary Engineering, Engineering Department, U.T.
Chandigarh.
3. Chief Engineer, Engineering Department, U.T. Chandigarh.

...RESPONDENTS

BY ADVOCATE: Sh. Assem Rai.

ORDER (ORAL)

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

The present O.A is directed against the order dated 10.05.1999
vide which the applicant was dismissed from service on his conviction
in a criminal case and order dated 12.06.2014 vide which applicant's

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representation for reinstatement in service pursuant to acquittal in criminal appeal, was rejected.

2. The facts which led to filing of the present O.A are required to be spelt out first. The applicant, after acquiring the Diploma in Civil Engineering, joined the respondent department as Sectional Officer w.e.f. 21.10.1974. Thereafter, he was promoted as Sub Divisional Engineer. An FIR No. 2 of 9.06.1992 was registered against various officers 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 him. During the pendency of the trial in criminal case, he was reinstated in service on 28.09.1993. Vide order dated 28.02.1998, the learned Special Judge convicted the applicant in the Criminal Case. Aggrieved by the above order, the applicant filed Criminal Appeal No. 191-SB-1998 before the Hon'ble Jurisdictional High Court. Based upon the conviction by the Learned Special Judge Chandigarh the department imposed the penalty of dismissal from service under Rule 13 of 1970, Rules. Dissatisfied, the applicant filed O.A No. 446/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. 444/CH/1999, O.A No. 451/CH/1999 and O.A No.

452/CH/1999. The same were disposed of vide a common order dated 09.05.2002 granting liberty to the applicant agitate the matter again after the decision in the pending criminal case. Thereafter, the appeal was allowed 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 representation dated 14.10.2013 followed by reminder dated 30.12.2013 requesting them to take him back in service as ground of dismissal prevalent at that time, stood washed away. His representation was rejected vide impugned order dated 12.06.2014 by recording a finding that in view of the advice tendered by the Vigilance Department, UT, Chandigarh, his request for instatement in service has been rejected. Hence, the present O.A.

3. Pursuant to notice, the respondents contested the claim of the applicant by filing short written statement wherein apart from mention of facts, 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. Yogesh Putney, learned proxy counsel for the applicant and Sh. Aseem Rai, learned counsel for the respondents.

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5. Sh. Yogesh Putney, learned counsel for the applicant submits that the impugned order cannot be sustained 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 an SLP cannot be used as a ground by the respondents to keep the applicant away from service. To cut short 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 wherein the applicant (therein) has also acquitted from the same very

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charges and 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 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)

(SANJÉEV KAUSHIK)
MEMBER (J)

Dated: 20.04.2015
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