

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

D.A. No. 26 of 1994

Date of decision 29.8.1995

Sri Ganesh Chandra Dehingia

PETITIONER(S)

Sri P.K. Musahari

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

None present. (Ors. B.K. Sharma on record).

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER (A).

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

M.G.Chaudhary

Judgement delivered by Hon'ble Vice Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 26 of 1994

Date of decision : This the 29th day of August, 1995.

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN

THE HON'BLE SHRI G.L. SANGLYINE, MEMBER (A).

Shri Ganesh Chandra Dehingia
Son of Shri Kuladhar Dehingia
Village - Pathalibam
P.S. Moran
District - Dibrugarh
Assam

..... Applicant

By Advocate Mr. P.K. Musahari

-versus-

1. The Financial Adviser & Chief Accounts Officer,
N.F.Railway,
Maligaon
Guwahati-781011
Assam

2. The General Manager
N.F.Railway,
Maligaon
Guwahati-781011
Assam

3. The Union of India
Represented by the General Manager
N.F. Railway

..... Respondents

None present for the respondents.

O R D E R

CHAUDHARI J. (V.C.)

The O.A. is directed against the order of dismissal of the applicant from service passed by the FA & CAO, N.F. Railway dated 9.1.1984. It arises under the following circumstances :

2. The applicant was at the material time working as Senior Cashier. He was prosecuted in a criminal case and was convicted by

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the Criminal Court under Section 5 (2) read with Section 5(1) of the Prevention of the Corruption Act and Section 409 of the I.P.C. and sentenced to suffer rigorous imprisonment and to pay fine by judgement and order dated 13.6.1983.

3. In view of the aforesaid order of conviction which was passed by the learned Special Judge, Assam, Guwahati in Special Case No. 11/78, the FA & CAO passed the impugned order dated 9.1.84 dismissing the applicant from Railway service in exercise of powers conferred by Rule 14(1) of the Railway Service (Discipline and Appeal) Rules 1968. Against that order the applicant had preferred an appeal with the Department on 23.8.91. From the written statement it appears that that appeal was not entertained on the ground of delay.

4. Against the order of conviction passed by the learned Special Judge the applicant preferred Criminal Appeal No. 85/83 in the Hon'ble Guwahati High Court. By Judgement and Order dated 1.6.95 the appeal has been allowed and the applicant is acquitted of the offences for which he was convicted by the Trial Court. The applicant has thereafter filed the instant O.A. on 4.2.1994 praying that in view of his acquittal the impugned order of dismissal dated 9.1.1984 be set aside and respondents be directed to reinstate him in service with all benefits including back wages with effect from 9.1.1984.

5. As can be seen from the written statement no full fledged departmental enquiry was held against the applicant but he was prosed in the Criminal Court. However the order of dismissal was passed under Rule 14(1) of Railway (Discipline & Appeal) Rules 1968 mentioned above.

6. In view of the fact that the applicant has been acquitted of the criminal charges for which the order of dismissal was passed he is ordinarily required to be reinstated. However since the judgement of the High Court in the Criminal Appeal shows that the applicant has been acquitted on benefit of doubt and the acquittal is not a clean acquittal we think that although the impugned order may be set aside

on the ground that the very basis thereof does not survive it would be in fitness of things to leave it open to the respondents to draw disciplinary proceeding for the alleged misconduct if so advised. *or close the chapter*

In the result following order is passed

1. The impugned order of dismissal dated 9.1.1984 is hereby set aside.
2. The respondents are directed to reinstate the applicant forthwith.
3. There will be no bar for the respondents to draw up disciplinary enquiry proceedings against the applicant if so advised and to pass such interim orders as may be called for pending the enquiry.

In the event of such proceedings being commenced respondents will be free to take steps in accordance with the law and the rules including suspension of the applicant if so necessary. The respondents shall take the decision whether to draw ^{up} disciplinary proceeding *or to* not *and* close the chapter, within a period of two months from the date of receipt of the copy of this order. If the respondents decide not draw up disciplinary proceedings the respondents shall give all the consequential benefits including back wages to the applicant with effect from 9.1.1984 till the date of reinstatement of the applicant as per the relevant financial rules.

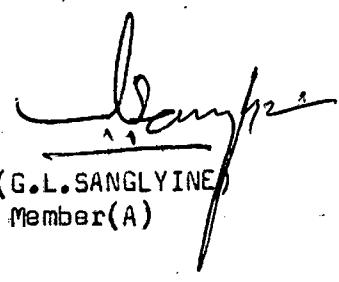
However in the event of the respondents deciding to draw disciplinary proceedings the question of giving consequential benefits and back wages shall stand postponed till the conclusion of the disciplinary enquiry and thereafter it shall be dealt with consistently with the order at the enquiry. If the disciplinary enquiry

full

is commenced it shall be completed within a period of six months.

If it is not completed within that time liberty to the applicant to seek directions from the Tribunal in respect of back wages and other consequential reliefs without prejudice to the enquiry.

The O.A. accordingly allowed. No order as to costs.


(G.L.SANGLYINE)

Member(A)


(M.G.CHAUDHARI)

Vice-Chairman

trd