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CENTRAL ADMINISTRATIVE TRIBUNAL CALCUTTA BENCH

No. O.A. 350/00890/2014
M.A. 350/00308/2015

Date of order: 9.9.2015

Present : Hon'ble Mr. Justice G. Rajasuria, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

Manas Kumar Charkabarty,
Son of Late Kishori Mohan Chakraborty,
Aged about 52 years,
Residing at Vill. & P.O. - Soaluk,
P.S. - Pursurah,
Dist. - Hooghly, Pin - 712 410,
Worked as EDBPM Soaluk Branch Office
Via - Tarakeswar, Dist. Hooghly,
Since been dismissed from service.

.. Applicant

- V E R S U S -

1. Union of India through the Secretary,
Ministry of Communication,
Government of India,
Department of Posts, Dak Bhavan,
Sansad Marg,
New Delhi - 110 011.
2. The Chief Post Master General,
West Bengal Circle, Yogayog Bhawan,
C.R. Avenue, Kolkata - 12.
3. The Director of Postal Services,
South Bengal Region, Yogayog Bhawan,
Kolkata - 12.
4. The Sr. Superintendent of Post Offices,
South Hooghly Division, Serampur,
Pin - 712 201.
5. The SDI (P), Tarakeswar Sub-Division,
Tarakeswar, Hooghly,
Pin - 712 410.

.. Respondents

For the Applicant : Mr. J.R. Das, Counsel

For the Respondents : Mr. C.R. Bag, Counsel
Mr. U.P. Bhattacharyya, Counsel
Mr. S.K. Mukhopadhyay, Counsel

O R D E R (Oral)

Per Mr. G. Rajasuria, Judicial Member:

Heard both sides.

2. This O.A. has been filed seeking the following reliefs:-

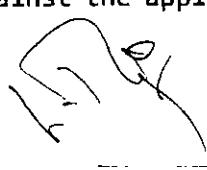
- "(i) An order quashing and/or setting aside the impugned Office Memorandum of put off duty and Charge Memorandum, Inquiry Report and entire proceedings, as also dismissal order dated 26.2.2002 by the Disciplinary authority and impugned Appellate Order dated 5.2.2014 along with forwarding letter dated 10.2.2014.
- (ii) An order directing the respondents to pay all the due allowances including all the consequential/promotional benefits as admissible under the rules with due interest thereof.
- (iii) An order directing the respondents to produce all relevant records before this Hon'ble Tribunal for conscientiable justice with a copy to the Ld. Advocate of the applicant."

3. A bare perusal of the record would reveal thus:-

The applicant while functioning as EDBPM, was chargesheeted vide memo dated 26.6.2002 (Annexure A-2). Admittedly the applicant did not participate in the departmental proceedings on the sole ground that two criminal cases on the same matter were pending in criminal court. However, the departmental proceedings got concluded ex parte and punishment of dismissal was imposed, as against which an appeal was filed after the intervention of the CAT at the instance of the applicant.

4. The appellate authority vide Annexure A-11 dated 8.2.2013 confirmed the punishment imposed by the disciplinary authority. Challenging and impugning the same, this O.A. has been filed with the aforesaid prayers.

5. The Ld. Counsel for the applicant brought to the notice of this Tribunal, that the two criminal cases booked against the applicant,



pendent lite ended in acquittal.

6. The Ld. Counsel for the applicant placing reliance on the orders of the Criminal Court in Special Case Nos. 4/99 and 4/2000 dated 13.3.2015, would develop his argument to the effect that in as much as the criminal court acquitted the applicant of all the charges, he is entitled to reinstatement.

7. Whereas the Ld. Counsel for the respondents would submit that the prayer of the applicant could not be acceded to, simply because the criminal court acquitted the applicant of the charges; that such acquittal was not honourable, but it was with the finding that the prosecution did not prove its case. In departmental proceedings preponderance of probabilities would govern the adjudication however in criminal case, proof beyond all reasonable doubts is required.

Accordingly, he would pray for the dismissal of the O.A.

8. The point for consideration is as to whether the acquittal of the applicant in the criminal cases would automatically, ensure to his benefit to seek for reinstatement, and whether in the facts and circumstances of the case the CAT at this stage is enjoined to adjudicate on merits the findings rendered by the disciplinary authority and also the appellate authority.

9. At the outset, we would like to be fumigate our mind with the proposition of law that in departmental proceedings the applicant is expected to exhaust all his remedies. No doubt earlier the applicant with the intervention of the order of CAT could get the appeal entertained by the appellate authority. However, the appellate authority dismissed the appeal on merits. Thereafter without approaching the revisional authority, straightway the present O.A.

was filed. There might be divergent views on the issue as to whether as per Section 20 of the AT Act, 1985, the applicant is expected to exhaust his revisional remedy also before approaching the Central Administrative Tribunal. As of now in the peculiar factual scenario, it is not necessary to ponder over the said issue.

10. It is to be pointed out that the criminal court acquitted the applicant on the ground that the charges as against him were not proved. We are of the firm opinion that the revisional authority, is the competent authority to set in judgment over the recording of guilt by the disciplinary authority as well as the appellate authority in this matter. The revisional authority would be in a better position to compare the evidence adduced before the disciplinary authority and also before the criminal court and arrive at a conclusion as to whether consequent upon the acquittal in criminal cases, the departmental proceedings should be set aside or not.

11. At present we are not adjudicating the matter on merits. We would direct the applicant to file a revision within one month before the revisional authority, thereupon such authority is expected to entertain it without insisting on the limitation point and decide the revision within a period of three months thereafter.

12. In view of the ratio-cination adhered to by us in disposing of the O.A., the M.A. for amendment/incorporation in the O.A. stands disposed of.

13. Ordered accordingly.

(Jaya Das Gupta)
MEMBER(A)

(G. Rajasuria)
MEMBER(J)

SP