

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00194/2016

Date of Order: 26.08.2019

CORAM

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Jaleshwar Yadav, Son of Late Sukhdev Yadav, resident of Village Bari Mirjapur, Jamalpur Road, P.S. Kasim Bazar, District: Munger, At present posted as Technician-I, T/NO. 13707, TTS Shop, Jamalpur Railway Workshop, Eastern Railway, Jamalpur, Munger.

..... Applicant.

- By Advocate: Mr. A.K. Verma

-Versus-

1. The Union of India represented through the Chief Secretary, Department of Railway, Govt. of India, Rail Bhawan, New Delhi.
2. The General Manager, Eastern Railway, Kolkata.
3. The Divisional Railway Manager, Malda Division, Malda.
4. The Chief Workshop Manager, Eastern Railway, Jamalpur, Munger.
5. The Deputy Chief Mechanical Engineer (Production), T.T.S. Shop, Eastern Railway, Jamalpur, Munger.
6. The Personnel Officer, Eastern Railway, Jamalpur, Munger.
7. The Assistant Personnel Officer, Eastern Railway, Jamalpur, Munger.
8. The Deputy Chief Accounts Officer, Eastern Railway, Jamalpur, Munger.

..... Respondents.

- By Advocate: Mr. S.K. Ravi

ORDER
[ORAL]

Per Dinesh Sharma, A.M:- In the instant OA the applicant has claimed for payment of full salary for the period of his suspension, i.e. from 18.05.2012 to 17.10.2012 with statutory interest since he has been

acquitted by the Court in the case on account of which he was arrested and placed under suspension for the aforesaid period. The applicant has made various representations before his superior officers. However, he has been informed that his period has been regularized treating it as "non-working day". The applicant has annexed Railway Board's letter No. E(D&A) 84 RG-6-26 dated 29.04.1985 where it is mentioned that in a judgment of an Hon'ble Court there is no such thing as clear acquittal and that even if the acquittal is on benefit of doubt the entire period of suspension should be treated as duty with full pay and allowances.

2. The respondents have denied the claim of the applicant. They have alleged that the applicant remained under suspension since he was sent to jail having been involved in Police Case No. 50/2012 under Section 302/120(B) and 201 of the IPC. Though he has been acquitted of the charges levelled against him by giving him benefit of doubt his suspension period was regularized treating it as non-duty keeping in mind the Railway Board's letter No. E(D&A)69/RG 6/48 dated 05.09.1970. They have also stated that the circular dated 29.04.1985 is not applicable in the instant case since that would be applicable only where there is an issue about clear acquittal or not. In the present case, the applicant has been acquitted of the charges levelled against him by giving him "benefit of doubt". They have repeatedly mentioned that only the aforementioned circular dated 05.09.1970 is applicable in this case.

3. The applicant has not filed any rejoinder to the written statement.

4. We have gone through the pleadings and heard the counsels of both the parties. There is apparently some contradiction between the Board's circular of the year 1970 and the one that was issued in the year 1985. The argument for the respondents is that the 1985 circular distinguishes between cases where a court sets aside an order on technical ground and other cases where the person is acquitted. In case of acquittal no further distinction is possible. An English translation of the operative portion of the judgment of the Trial Court in this case is reproduced below:-

“In this way, the prosecution has fully failed in establishing beyond doubt the alleged incident and the complicity of the trial accused in the incident, through evidence. In this situation, I do not find the accused guilty of the alleged offence. In these suspicious circumstances, the accused is entitled to get the benefit of doubt.”

5. After going through the facts of the case and reading the operative portion of the judgment of the Hon'ble Additional Session Judge, we find merit in the argument of the respondents. The OA is, therefore, dismissed. No order as to costs.

[Dinesh Sharma]/M[A]

[J.V. Bhairavia]/M[J]

Srk.