

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1082/2003

New Delhi, this the 5th day of November, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member (A)

Sh. Roop Chand
S/o late Ram Singh
working as Head Armed Guard in
the National Institute of Science
Communication and Information Resources
Dr. K.S. Krishnan Marg, New Delhi-12.

...Applicant

(By Advocate Sh. K.N. Bahuguna)

V E R S U S

1. Council of Scientific &
Industrial Research
'Anusandhan Bhawan'
Rafi Marg, New Delhi - 1
through its Joint Secretary (Admn)

2. Director
National Institute of Science
Communication and Information Resources
(NISCAIR)
Dr. K.S. Krishnan Marg, New Delhi-12.

...Respondents

(By Advocate Sh. Manoj Chatterjee with
Ms. K. Iyer)

O R D E R (ORAL)

Mr. Justice V.S. Aggarwal,

Applicant Roop Chand is working as Head Armed Guard in the the National Institute of Science Communication and Information Resources. Facts are within a narrow compass and can conveniently be stated in few words.

2. The applicant had been arrested and faced a trial with respect to an offence under Sections 302, 307, 342, 325 and 120-B of the Indian Penal Code. He was acquitted by the Court of competent jurisdiction. On being acquitted, he has been reinstated on 16-11-2000.

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3. The applicant preferred OA 2414/2002. It was disposed of by this Tribunal on 18-9-2002 directing respondent No.2 to consider the claim of the applicant pertaining to pay and allowances and pass a speaking order.

4. In accordance with the directions of this Tribunal, the impugned order dated 4-4-2003 had been passed. Operative part of the same reads :-

"1. Whereas Sh. Roop Chand has been acquitted by the Court by giving him benefit of doubt, he would be paid the suspension allowances and backwages after making 2 % deduction.

2. He will be paid notional increments from the date of his acquittal for the total period from 28-11-85 to 15-10-2000.

3. According to O.M. No.3 (11)/87-Estt. dated 9-4-2001, his promotion to the post of Head Armed Guard would be effective.

4. The period of suspension except for pension would be treated as 'Non-duty', which means that for the suspension he would not be paid anything such as leave etc. (as detailed above)."

5. Learned counsel for the applicant has contended that no enquiry had been held and, therefore, there could not be a deduction of 2 % in the suspension allowance. The applicant should have been treated on duty for all practical purposes and necessary benefits to that extent should accrue to him.

6. Petition has been contested.

7. The Full Bench of this Tribunal in the case of S. Samson Martin v. UOI & Ors. (1990 (1) ATJ 423) has considered this question while referring to

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the decision of the Supreme Court in the case of Brahma Chandra Gupta v. UOI (AIR 1984 SC 380). The Full Bench had concluded that whatever the circumstances may be of acquittal, but after the acquittal order is passed, the concerned person without resorting to the disciplinary proceedings cannot be imposed a penalty.

8. In addition to that, when the applicant had been placed under suspension because of the pending criminal case wherein he has been acquitted, he cannot be penalised for a lapse which cannot be attributed to him. As a consequences thereto, it must be held that without resorting to disciplinary proceedings, if permitted in law, the 2 % deduction could not have been made from the suspension allowance and the back wages. Applicant must be treated to be on duty for all practical purposes. He would be entitled to the consequential benefits.

9. OA is disposed of.



(S.A. Singh)
Member (A)



(V.S. Aggarwal)
Chairman

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