

2

Central Administrative Tribunal, Principal Bench

Original Application No.1838 of 2003

New Delhi, this the 29th day of July, 2003

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

Shri V.P. Harit,  
S/o Shri Laxmi Narain Shastri  
Class II, Gazetted Post  
R/o RZ-66A, B Block,  
Kailash Puri,  
New Delhi-45

.... Applicant

(By Advocate: Shri R.K. Kapoor)

Versus

Union of India through  
The Secretary  
Ministry of Communication and  
Information & Technology,  
Department of Telecommunications,  
Sanchar Bhawan,  
20, Ashoka Road,  
New Delhi

.... Respondent

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

By virtue of the present application, the applicant V.P. Harit seeks quashing of the order of 20.5.2003 and further a direction to reinstate him with all consequential benefits.

2. Some of the relevant facts are that the applicant had been placed under suspension on 15.4.94. He was tried and learned Additional Sessions Judge, Bhiwani on 14.5.98 held the applicant guilty of the offences punishable under Sections 307/326/324 read with Sections 149 and 148 of the Indian Penal Code. The applicant had preferred an appeal in the High Court of Judicature at Chandigarh (Punjab and Haryana) and the said High Court had suspended the sentence during the pendency of the appeal.

*Ms Ag*

3. By virtue of the impugned order, the applicant has since been dismissed from the service. His grievance is that once he has preferred an appeal and the sentence imposed by the learned trial court has been suspended, he cannot be dismissed from service.

4. On careful consideration of the facts, we are of the considered opinion that the plea so raised cannot be accepted. Only the sentence has been suspended. The effect of suspension of the sentence by the appellate court is that he has not to undergo the sentence but he remains convicted. The conviction has not been suspended. Once that is the situation, the respondents rightly keeping in view the order passed by the trial court, thought it appropriate to dismiss the applicant keeping in view the nature of the offence. We hasten to add that if the appeal is allowed, the applicant would be within his right to seek recalling of the said order.

5. No other plea has been raised. Keeping in view the abovesaid facts, the application fails and is dismissed in limine.

Deoar  
( S.K. Naik )  
Member(A) .

V.S. Aggarwal  
( V.S. Aggarwal )  
Chairman .

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