

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 2618/2003

New Delhi this the 1st day of June, 2004

Hon'ble Shri Shanker Raju, Member (J)  
Hon'ble Shri Sarweshwar Jha, Member (A)

Smt. Krishna Wanti W/O  
Shri Shiv Kumar ED Packer,  
(Under put off duty) Laxmi Nagar  
Post Office under Delhi East Ist  
Sub Divn. and Delhi East Dv. Delhi  
and Delhi Postal Circle R/O A-115,  
Janakpuri, Sahibabad Distt. Ghaziabad

..Applicant

(By Advocate Shri Sant Lal )

VERSUS

1. The Union of India, through the  
Secretary, Deptt. of Posts, M/O  
Communications, Dak Bhawan,  
New Delhi-110001
2. The Chief Postmaster General, Delhi  
Circle, Meghdoot Bhawan, New Delhi.
3. The Sr. Supdt. of Post Offices,  
Delhi East Divn. Delhi-110051
4. The Asstt. Supdt. of Post Offices,  
Delhi East Ist Sub Divn. Delhi

..Respondents

(By Advocate Mrs. Meenu Mainee )

O R D E R (ORAL)

(Hon'ble Shri Shanker Raju, Member (J))

Put off duty is analogous to suspension which is covered under FR 54 (b). In a case of acquittal, if it is found that the suspension was held unjustified than the applicant is entitled to full pay and allowances as per her entitlement.

2. In the present case applicant was put off duty on 11.7.1989 on account of criminal investigation. Criminal case culminated into the charge sheet. Metropolitan Magistrate, Delhi vide an order dated

1.3.2001 acquitted the applicant from the criminal charges holding that the prosecution has miserably failed to establish its case.

3. By an order dated 8.5.2003 in pursuance of decision of the Apex Court where ex-gratia payment equal to 25% of her allowance TRCA has been allowed to the applicant w.e.f. 13.1.1997.

4. Instead of reinstating the applicant in service the respondents on the basis of an order passed 19.2.2003 holding disciplinary proceeding against her continued to put her off duty.

5. Learned counsel for the applicant, Shri Sant Lal, resorting to the decision of the Apex Court in Babu Lal Vs. State of Haryana and Ors (1991(1) SLJ 221 SC) contended that suspension if resorted to on sole ground of involvement in criminal proceeding on an Hon'ble acquittal, the same is to be withdrawn with reinstatement of the applicant. He buttress his plea on the basis of the decision in Braham Chandra Gupta Vs. UOI (SC SLJ (Vol.IV) 459) and also in Sripati Vs. UOI and Ors (1990(1)SLJ 214 CAT).

6. On the otherhand, respondents counsel vehemently opposed the contention, according to her, applicant on acquittal has been charge-sheeted in a disciplinary proceeding as such put off duty was continued.

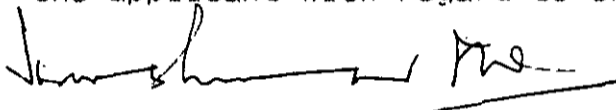
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7. On careful consideration of the rival contentions of the parties, we are of the considered view that there is no concept of Hon'ble acquittal in Cr.P.C. though respondents have right to examine the circumstances as well as the decision of the Trial Court.

8. On perusal of the decision of the order passed by the Metropolitan Magistrate we find that the failure of the prosecution to establish the charges against the applicant by way of either direct ocular or indirect or even circumstantial evidence brought on record has come to indicate any nexus or relation between the accused person. It is not clear from the evidence as to what role was attributable in the offence. Accordingly by all means the aforesaid acquittal is an acquittal on merit. Accordingly applicant is entitled to be put back in service on revocation of put off duty. The further disciplinary proceedings would not effect the revocation of put off duty and reinstatement of the applicant. Moreover, immediately after the decision of the Trial Court dated 1.3.2001 the respondents should have taken a decision regarding put off duty. Issue of charge sheet on 19.2.2003 is an even subsequent would not effect the reinstatement of applicant.



9. In the result, the order passed by the respondents cannot be sustained and is accordingly set aside. Respondents are directed to reinstate the applicant in service and treat the aforesaid put off duty period in accordance with FR 54(b) and analogous provision as spent on duty. Applicant shall be entitled to all consequential benefits which would be disbursed to him within three months from the date of receipt of a copy of this order. However, the aforesaid directions shall not come in the way of the respondents if so advised to take proper action against the applicant with regard to charge sheet. No costs.

  
( Sarweshwar Jha )  
Member (A)

  
( Shanker Raju )  
Member (J)

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