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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 3120/2003

New Delhi, this the 30th day of December, 2003

**Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri R.K. Upadhyaya, Member (A)**

Sh. Nand Kishor Saini,
S/o Sh. Suraj Mal Saini,
Lastly employed as Postal Assistant
Ganesh Pura Post Office, Delhi.
(Under Delhi Postal Circle)
R/o Ram Pura, Delhi. Applicant

(By Advocate: Shri Umesh Singh)

Versus

1. Union of India through
Ministry of Communication,
Dept. Postal Services,
New Delhi.
2. Chief Post Master General,
Delhi Circle,
Megh Doot Bhawan,
New Delhi - 110 001. Respondents

(By Advocate: None)

ORDER (ORAL)

Justice V.S. Aggarwal, Chairman -

Applicant had been suspended on 27.7.1987. Disciplinary proceedings had been initiated for alleged misappropriation of the funds. He was dismissed from service in pursuance of the departmental enquiry on 19.4.1990. The applicant simultaneously had also been prosecuted. On 27.1.2000, the applicant was acquitted by the court of competent jurisdiction. Thereupon, the applicant had submitted an application seeking re-instatement and he preferred an appeal against the order passed by the disciplinary authority. The appeal

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was dismissed but the penalty of dismissal was reduced to a lesser penalty of removal. He preferred OA No. 1611/2001, which was disposed of by this Tribunal on 5.7.2001 directing the respondents to take a decision on the representation of the applicant. In the meantime, the applicant preferred a Revision Petition. When it was not decided, he filed OA No. 2891/2002. This Tribunal on 28.11.2002 had directed that Revision Petition may be decided within the stipulated period.

2. The Revision Petition has been decided on 9.1.2003. The same was dismissed and the said order reads:

"Shri N.K. Saini, ex-P.A. Delhi North Division was charge sheeted under Rule 14 of CCS(CCA) Rules on 12th April, 1988 after observing the prescribed procedure. The ex-official was dismissed from service with immediate effect (19.4.1990) by Sr. Supdt. of Post Offices. Thereafter, the charged official preferred an appeal to the appellate authority on 4.7.2000 after being acquitted by the Court. The Director Postal Services reduced the punishment from dismissal to that of removal on 16th October, 2001. The official has come up with a petition addressed to Member (P), Postal Services Board which is to be dealt with by CPMG under delegated powers. This is a strange case where the appellate authority has considered appeal after over 10 years when the case had become time-barred. Such cases should be considered only within the time-frame laid down unless there is some small delay due to reasons beyond the control of the ex-official and if such delay is condoned by the competent authority. The basic point still remains that the official was dismissed from service about 12 years back and a time-barred

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case was considered. I am not inclined to go into the merits of the case because the case has been delayed beyond the accepted limits. There has to be an element for finality in regard to such matters. The decision of the DPS, however, has not done any damage to the case because reduction in punishment from dismissal to removal is only a technical matter without any real consequences. Therefore, the petition is dismissed."

3. By virtue of the present application, the applicant assails the order passed by the Revisionl Authority and also seeks to set aside the order of dismissal as well as removing him from service.

4. We have heard the learned counsel. The principle of law is well settled that if a person violates the law of the land he can be prosecuted. The prosecution is to punish the guilty while the departmental action is taken to maintain discipline in the department. The criminal proceedings as well as the departmental action necessarily, need not go arm in arm.

5. In the present case, the applicant had been dismissed from service in the year 1990. He had been acquitted by the court of competent jurisdiction 10 years thereafter. Armed with the order of acquittal, he preferred an appeal and taking advantage of the same he seeks to assail the said orders.

6. Our attention has been drawn to the fact that this Tribunal had directed the representation to

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be decided and, therefore, the dismissal of the applicant in the year 1990 should not stand in the way of this Tribunal to entertain the present application. We find that the said submission is without any force. The representation, if any, made will not give a fresh cause nor this Tribunal had directed that delay, if any, in this regard after dismissal of the year 1990 should be condoned.

7. Revisional authority has taken care of the entire facts. It was aware of the fact that the appeal was preferred after ten years of the applicant having been dismissed. Therefore, the revisional authority taking stock of the said fact did not deem it appropriate to re-open the matter. We find that the said reasoning cannot be stated to be illegal or infirm to prompt us to interfere.

8. The series of events clearly show that there was an inordinate delay on the part of the applicant in challenging the order dismissing him from service, which was passed way back on 19.4.1990. The acquittal, as already referred to above, will not infuse life ~~into~~ ^{had} the settled position which ~~would have~~ been accepted by the applicant in the year 1990. Therefore, there is little scope for interference. Resultantly, the OA being without merit must fail and is dismissed in limine.


(R.K. Upadhyaya)

Member (A)


(V.S. Aggarwal)
Chairman

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