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**(2003) 01 DEL CK 0004**  
**In the Delhi High Court**  
**Case No : CWP No. 4495 of 2000**

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| Head Constable Satish Kumar      | Vs | APPELLANT  |
| Union of India (UOI) and Another |    | RESPONDENT |

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**Date of Decision :** 27-01-2003

**Acts Referred:**

**Citation :** (2003) 01 DEL CK 0004

**Hon'ble Judges :** Madan B. Lokur, J; D.K. Jain, J

**Bench :** Division Bench

**Advocate :** Ashwani Bhardwaj, for the Appellant; A.K. Srivastava and Jitendra Kumar for R-1 and Sunil Bagai, for R-2, for the Respondent

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## Judgement

D.K. Jain, J.—The petitioner was appointed as a Constable in the Delhi Police in the year 1981 and was subsequently promoted to the rank of Head Constable. In the year 1996, pending disciplinary proceedings, he was placed under suspension on the allegation that he had fraudulently remarried without divorcing his first wife. Subsequently, in the departmental inquiry, the Inquiry Officer found that the charge was proved.

2. The Disciplinary Authority, taking into consideration the findings recorded by the Inquiry Officer, passed an order of punishment of forfeiture of three years of approved service permanently with reduction in his pay.

3. Aggrieved, the petitioner preferred appeal to the appellate authority, who, after issuing a show cause notice to the petitioner and taking into consideration the Explanation furnished, enhanced the punishment to dismissal from service. Petitioner's revision application having been dismissed by the Commissioner of Police, he carried the matter to the Central Administrative Tribunal, New Delhi.

4. Vide the impugned order, dated 4 February 2000, while quashing the order of dismissal from service, on the ground that there was no evidence on record to prove the charge against the petitioner and directing his reinstatement, the Tribunal has ordered that the petitioner will not be entitled to the back wages.

The petitioner is aggrieved of this part of the order whereby back wages have been denied to him.

5. Admittedly the Department has not challenged the afore-noted directions to them.

6. The petition is resisted by the respondents solely on the ground that the back wages have been denied to the petitioner on the principle of no work no pay, though it is also feebly contended by learned counsel for them that the petitioner has not been fully exonerated of the charge of bigamy and, Therefore, FR 54-A(3) is not applicable in his case.

7. Having heard learned counsel for the parties, we are of the considered view that the decision of the Tribunal denying back wages to the petitioner cannot be sustained. FR 54-A(3) clearly provides that if the dismissal of a government servant is set aside by the Court on the merits of the case, the period intervening between the date of dismissal, including the period of suspension preceding such dismissal, and the date of reinstatement shall be treated as duty for all purposes and he shall be paid the full pay and allowances for the period to which he would have been entitled to prior to such dismissal. Having carefully perused the order of the Tribunal, we do not find any substance in the stand of the respondents that the petitioner has not been fully exonerated of the charge of bigamy. The Tribunal has clearly held that this is a case of no evidence against the petitioner . The Department has not challenged the said finding of the Tribunal. In view of the findings recorded by the Tribunal, the petitioner is entitled to full back wages in terms of the FR 54-A(3).

8. Consequently, the petition is allowed and the impugned order is set aside to the extent it denies the back wages to the petitioner. The respondents are directed to pay full back wages to the petitioner in terms of the aforementioned FR within eight weeks from today.

9. The petition stands disposed of accordingly. No costs.