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**(2019) 05 CAT CK 0007**

**In the Central Administrative Tribunal**

**Case No : Original Application No. 4229 Of 2014**

Neeraj Kumar, Aged about 32 years

APPELLANT

Vs

Chairman-cum-Managing Director

RESPONDENT

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**Date of Decision : 02-05-2019**

**Acts Referred:**

Indian Penal Code, 1860 — Section 406, 498A, 506

**Citation : (2019) 05 CAT CK 0007**

**Hon'ble Judges : Nita Chowdhury, J;S.N. Terdal, J**

**Bench : Division Bench**

**Advocate : S.N.Sharma, Jatin Parashar, Ajesh Luthra**

**Final Decision : Disposed Off**

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## **Judgement**

S.N. Terdal, J

1. We have heard Mr.S.N.Sharma, counsel for applicant and Mr. Jatin Parashar for Mr. Ajesh Luthra, counsel for respondent, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

"(i) quash the impugned order dt. 8.8.2014, 16.8.2013 and 18.11.2011.

(ii) Direct the respondent to pay all the dues, arrears of the suspension period from 3.4.2010 to 14.7.2011 and thereby treating the period spent on duty.

(iii) direct the respondent to release the increment so held by the respondent.

(iv) Pass any other order or orders as deemed fit and proper in the facts and circumstances of the case may also be passed in favour of the applicant."

3. The relevant facts of the case are that the applicant was working as a Driver with the respondent-DTC. In an FIR No.92 dated 26.03.2010 filed under Sections 498A, 406 and 506 IPC he was arrested and remained in custody for three days from 2.04.2010 to 5.04.2010 and on 6.04.2010 when he intimated the

respondent, then vide order dated 26.04.2010 the applicant was kept under suspension w.e.f. 3.04.2010. However, vide order dated 14.07.2011, the suspension order was revoked. Subsequently, on the basis of the compromise the applicant entered into with his wife who was the complainant in the FIR, the Hon'ble High Court of Punjab and Haryana quashed the FIR vide its judgment dated 30.08.2011. The contention of the applicant is that the respondents have not paid subsistence allowance as per rules for the period from 3.04.2010 to 14.07.2011 and all his representations and appeal have been rejected by the impugned orders dated 18.11.2011, 16.08.2013 and 8.8.2014.

4. In the reply filed by the respondents, they have reiterated their stand taken in the impugned orders and they have further stated that as the applicant was arrested and he was in custody in a criminal case which was later on set aside due to compromise, as such he is not entitled to the relief prayed for. The counsel for the applicant vehemently and strenuously contended that the applicant was in custody only for 3 days from 02.04.2010 to 05.04.2010 and he was kept under suspension without paying subsistence allowance and the respondents be directed to pay the subsistence allowance as per the relevant rules of the Respondent similar to those available under Fundamental Rule-53.

5. In view of the facts and circumstances of the case, we allow the applicant to make a comprehensive representation to the respondent and we further direct the respondent to pass a detailed, reasoned and speaking order taking into account the relevant rules similar to those under Rule 53 of FR regarding the subsistence allowance as well as treating of the said period of suspension within two months from the date of receipt of the representation from the applicant. Needless to say that the applicant is entitled to have recourse to the remedy available to him against the said detailed, reasoned and speaking order going to be passed by the respondent, if so advised.

6. Accordingly, the OA is disposed of. No order as to costs.