

(2021) 02 CAT CK 0130

In the Central Administrative Tribunal

Case No : Original Application No. 100, 919 Of 2016, Miscellaneous Application No. 3654 Of 2018

P.C.Meena, Under Secretary

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 24-02-2021

Acts Referred:

Citation : (2021) 02 CAT CK 0130

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : Rishi Kant Singh, Gyanendra Singh, Rajinder Nischal

Final Decision : Disposed Of

Judgement

L. Narasimha Reddy, J

1. The applicant was appointed as Assistant in the year 1988 and was promoted to Section Officer in the year 1998. Thereafter, he was included in the Selection List for Under Secretary in 2006, and was promoted in 2010. FIR No.268/2011 dated 06.07.2011 was filed against the applicant in the Police Station, Bhusawar, Tehsil-Weir, District Bharatpur, Rajasthan, in connection with the offences punishable under Sections 143 (unlawful Assembly-Bailable), 323 (Causing hurt-Bailable), 342 (wrongful restraint-Bailable), 447 (Trespass-Bailable), 427 (mischief causing damage to the amount of fifty rupees-Bailable, and subsequently added 326 (grievous hurt-Non Bailable), of the IPC. He was also arrested. Through an order dated 30.10.2011, he was placed under suspension. The order of suspension was revoked two years thereafter i.e., on 01.02.2012, and he was reinstated into service.

2. The applicant filed this OA with a prayer to direct the respondents to release the service benefits for the period, during which, he was under suspension and to promote him to the post of Deputy Secretary with effect from the date on which his juniors were promoted. Further prayer is to direct the respondent no.2 to

send his vigilance status to respondent no.3, and ultimately extend the consequential benefits to him in all respects.

3. The applicant contends that the criminal case was totally unrelated to his service and there was no basis for the respondents to deny him the promotion and other benefits.

4. The respondents filed a detailed counter affidavit. According to them, the applicant suppressed the factum of his being arrested and later on he was placed under suspension. It is also stated that the promotion and other benefits could not be extended to the applicant on the ground of pendency of the criminal case.

5. The applicant filed a rejoinder.

6. We heard Mr.Rishikant Singh, learned counsel for the Applicant and Mr.Gyanendra Singh and Mr.Rajinder Nischal, learned counsel for the Respondents.

7. It is no doubt true that the juniors of the applicant were promoted to the higher post and were also extended consequential benefits. The fact, however, remains that the applicant could not be promoted to the post of Deputy Secretary on account of the pendency of the criminal case.

8. It is stated that the sealed cover procedure was adopted. Even by the time the OA was filed, the criminal case was pending. Therefore, the respondents cannot be found fault with for not extending the benefit of promotion etc. During the pendency of the OA, the applicant is said to have been acquitted by the Criminal Court, vide its judgment dated 12.07.2018.

9. In view of this development, the applicant needs to make a representation to the respondents to extend him the benefits, which were otherwise due to him, but were denied on account of the pendency of the criminal case. It is stated that such a representation has since been made.

10. Therefore, we dispose of this OA with a direction to the respondents to pass orders on the representation submitted by the applicant on 17.12.2020 within a period of two months from the date of receipt of a copy of this order. We leave it open to the applicant to supplement the representation with additional grounds, if any.

11. The MA.No.3654/2018 also stands disposed of. There shall be no order as to costs.