

(1996) 01 AHC CK 0007
In the Allahabad High Court
Case No : C.M.W.P. No. 30775 of 1995

Shitla Prasad Mishra

APPELLANT

Vs

High Court of Judicature

RESPONDENT

Date of Decision : 09-01-1996

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (1996) 1 UPLBEC 304

Hon'ble Judges : Paritosh K. Mukherjee, J

Bench : Single Bench

Advocate : R.N. Singh and V.K. Singh, for the Appellant;

Final Decision : Allowed

Judgement

Paritosh K. Mukherjee, J.—This writ petition was heard by me on November 3, 1995. Learned Standing Counsel was granted three weeks time to file a counter-affidavit showing cause as to why the Petitioner, who has been exonerated of the charge u/s 302, Indian Penal Code, has not been reinstated in service.

2. At the resumed hearing of the writ petition, it appears that no counter-affidavit has been filed by the Respondent. Neither learned standing counsel is present, nor any mention has been made on his behalf for adjournment. Since, I had heard the learned standing counsel, at a considerable length on November 3, 1995, and the Petitioner is out of employment. I feel that It is expedient in the interest of Justice to dispose of the writ petition after hearing learned Counsel for the Petitioner.

3. Sri V.K. Singh, learned Counsel for the Petitioner contended that the legal position is that if an employee is honourably acquitted from the criminal trial, he is deemed to be reinstated in service. In the present case, though the Petitioner was on daily wages, he was sacked on account of his involvement in the criminal case. The Petitioner was appointed as daily wager class IV employee, as far back as in 1982 along with several other persons. He had worked till December 1990

when he was implicated in a criminal case u/s 302, I.P.C. During the period of criminal trial, persons, who were appointed with the Petitioner in 1982, have been regularised. Since Petitioner was Involved in the criminal case, his case could not be considered.

4. The Petitioner has been honourably acquitted by Judgment and order dated 12.5.1992 passed by VIIIth Additional District and Sessions Judge, Allahabad, which is contained In Annexure 2 to the writ petition. It has been, therefore, strenuously urged by learned Counsel for the Petitioner that in the changed circumstances, Petitioner is entitled to all consequential benefits which have been conferred on the persons who were appointed along with him way back in 1982.

5. I find force in the submissions of learned Counsel for the Petitioner. Although, the Petitioner was appointed in 1982. On daily wages, he continued to work as such till 1990. But, for his involvement in a criminal case u/s 302, I.P.C., the Petitioner would not have been sacked. Now, when the Petitioner has been acquitted in the criminal case, and, according to the learned Counsel for the Petitioner, the judgment rendered by court below has attained finality, there is no Justification in depriving the Petitioner from his job, in these days of unemployment. More so, by efflux of time, the Petitioner has crossed the upper age of Government employment.

6. It is to be noted that no departmental proceeding is intended to be initiated after the acquittal in the criminal case, and, according to the Petitioner, there was no material for Initiating departmental proceeding.

7. It has been specifically asserted, in paragraph 13 of the writ petition that number of persons, who were appointed along with the Petitioner in 1982. have been confirmed in their services by an order dated 27.8.1992. In this view of the matter, the Petitioner also deserves to be confirmed as such.

8. In the result, the writ petition succeeds and is allowed. Registrar, High Court of Judicature at Allahabad is directed to take immediate steps for reinstating the Petitioner in service since he has been honourably acquitted in the criminal case, on merits, and not on technical ground, within a period of one week from the date of production of a certified copy of this judgment and order. The Petitioner is also entitled to all consequential benefits, in accordance with law. The Petitioner is also entitled to be confirmed in service from the date, persons, who were appointed along with him, in 1982, have been confirmed. Parties shall bear their own costs.