

KRISHNAKANT RAGHUNATH BIBHAVNEKAR

A

v.

STATE OF MAHARASHTRA AND ORS.

FEBRUARY 28, 1997

[K. RAMASWAMY AND SUJATA V. MANOHAR, JJ.]

B

*Service Law :*

*Maharashtra Civil Services (Joining Time, Foreign Services, and Payment during suspension, Dismissal and Removal) Rules, 1991 :*

C

*Rules 72(3), 72(5) and 72(7)—Reinstatement after suspension—Claim for consequential benefits—Petitioner-employee prosecuted u/s. 409 IPC—During trial he was kept under suspension—Trial ended in acquittal—Petitioner reinstated in service—Claim for consequential benefits rejected by Tribunal—Held, the very cause for suspension of petitioner was his conduct that led to prosecution of him—Though prosecution may end in acquittal on appreciation or lack of sufficient evidence, grant of consequential benefits with all back wages etc. cannot be as a matter of course—In the circumstances, petitioner would not be entitled to consequential benefits.*

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1868 of 1997. E

From the Judgment and Order dated 29.9.95 of the Maharashtra Administrative Tribunal, Bombay in R.P. No. 28 of 1995.

Ranjeet Kumar, Ramesh Singh, Ms. Rakhi Verma and Ms. Bina Gupta for the Appellant. F

D.M. Nargolkar for the Respondents.

The following Order of the Court was delivered :

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Leave granted.

We have heard counsel on both sides.

The appellant while working as Compositor in the Government of India Printing Press, was charged for offences punishable, *inter alia*, under H

A Section 409 of IPC. Pending Trial, he was kept under suspension and was paid subsistence allowance. After his acquittal, the appellant was reinstated but the respondents did not grant the consequential benefits to him. Consequently, the appellant approached the Administrative Tribunal. The Tribunal by the impugned order dated 27th April, 1995 in OA No. 40/92, dismissed the application. Thus, this appeal by special leave.

B

Mr. Ranjit Kumar, learned counsel for the appellant, contends that under Rule 72(3) of the Maharashtra Civil Services (Joining Time, Foreign Services, and Payment during Suspension, Dismissal and Removal) Rules, 1991 (for short, the 'Rules'), the Rules cannot be applied to the appellant nor would the respondents be justified in treating the period of suspension of appellant, as the period of suspension, as not being warranted under the Rules. We find no force in the contention. It is true that when a Government servant is acquitted of offences, he would be entitled to re-instatement. But the question is : whether he would be entitled to all consequential benefits including the pensionary benefits treating the suspension period as duty period, as contended by Shri Ranjit Kumar? The object of sanction of law behind prosecution is to put an end to crime against the society and laws thereby intends to restore social order and stability. The purpose of prosecution of a public servant is to maintain discipline in service, integrity, honesty and truthful conduct in performance of public duty or for modulation of his conduct to further the efficiency in public service. The Constitution has given full faith and credit to public acts. Conduct of a public servant has to be an open book; corrupt would be known to everyone. The reputation would gain notoriety. Though legal evidence may be insufficient to bring home the guilt beyond doubt or fool-proof. The act of reinstatement sends ripples among the people in the office/locality and sows wrong signals for degeneration of morality, integrity and rightful conduct and efficient performance of public duty. The constitutional animation of public faith and credit given to public acts, would be undermined. Every act or the conduct of a public servant should be to effectuate the public purpose and constitutional objective. Public servant renders himself accountable to the public. The very cause for suspension of the petitioner and taking punitive action against him was his conduct that led to the prosecution of him for the offences under the Indian Penal Code. If the conduct alleged is the foundation for prosecution, though it may end in acquittal on appreciation or lack of sufficient evidence, the question emerges : whether the Government servant prosecuted for com-

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mission of defalcation of public funds and fabrication of the records, though culminated into acquittal, is entitled to be reinstated with consequential benefits? In our considered view, this grant of consequential benefits with all back-wages etc. cannot be as a matter of course. We think that it would be deleterious to the maintenance of the discipline if a person suspended on valid considerations is given full back wages as a matter of course, on his acquittal. Two courses are open to the disciplinary authority, viz., it may enquire into misconduct unless, the self-same conduct was subject of charge and on trial the acquittal was recorded on a positive finding that the accused did not commit the offence at all; but acquittal is not on benefit of doubt given. Appropriate action may be taken thereon. Even otherwise, the authority may, on reinstatement after following the principle of natural justice, pass appropriate order including treating suspension period as period of not on duty, (and on payment of subsistence allowance etc.) Rules 72(3), 72(5) and 72(7) of the Rules give a discretion to the disciplinary authority. Rule 72 also applies, as the action was taken after the acquittal by which date rule was in force. Therefore, when the suspension period was treated to be a suspension pending the trial and even after acquittal, he was reinstated into service, he would not be entitled to the consequential benefits. As a consequence, he would not be entitled to the benefits of nine increments as stated in para 6 of the additional affidavit. He is also not entitled to be treated as on duty from the date of suspension till the date of the acquittal for purpose of computation of pensionary benefits etc. The appellant is also not entitled to any other consequential benefits as enumerated in paragraphs 5 and 6 of the additional affidavit.

Under these circumstances, we do not think that the Tribunal has committed any error.

The appeal is accordingly dismissed but, in the circumstances of this case, without costs.

R.P.

Appeal dismissed.