



**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

ON THE 5th OF FEBRUARY, 2026

WRIT PETITION No. 559 of 2015

GOVIND PRASAD SHARMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Yogesh Chaturvedi – counsel for petitioner.

Shri Yogesh Parashar – Government Advocate for respondent/State.

ORDER

This petition, under Article 226 of Constitution of India, has been filed seeking the following relief (s):

“(i) That the impugned order Annexure P/1 dated 25.02.2014 passed by respondent No. 2 may kindly be modified and quashed upto the extent of not granting the full salary for the period of suspension.

(ii) That the respondent may kindly be directed to pay the full salary and all other benefits for the period of suspension that is 28.06.1997 till passing



the order of revocation of suspension dated 13.02.2008.

(iii) That the arrears of salary may kindly be directed to be granted with interest.

(iv) That, any other suitable relief may kindly be granted which think this Hon'ble Court suitable in this present case.”

2. Learned counsel for petitioner submits that petitioner was appointed to the post of Assistant Grade-III and while he was working on the said post at Govt. Boys H.S. School, Ganjbasoda, District Vidisha, he was suspended vide order dated 28.06.1997 on the ground that in a matter relating to misappropriation of scholarship money, a challan was filed against petitioner before the Court of J.M.F.C. in Criminal Case No. 291/96. During the period of suspension, petitioner was attached to the office of the Block Education Officer, Ganjbasoda. Thereafter, petitioner submitted a representation for revocation of suspension order on the ground that more than three years had elapsed and even after framing of charges, no order had been passed by the concerned authority. After considering the said representation, respondent No. 2 revoked the suspension vide order dated 18.01.2008. It is further submitted that thereafter petitioner was acquitted in the criminal case by the learned Court below vide judgment dated 11.03.2011 (Annexure P/4). It is further submitted that a departmental proceeding was initiated against petitioner on the same set of charges. However, the departmental inquiry and proceedings were also dropped by respondent No. 2 without imposing any penalty, vide order dated 25.02.2014 (Annexure P/1). Despite this, the period of suspension was treated on the principle of “no work,



no pay” and full salary for the suspension period i.e. from 28.06.1997 to 13.02.2008 was denied. Thereafter, petitioner submitted a representation before respondent No. 2 seeking payment of full salary for the aforesaid period of suspension, which was rejected vide order dated 25.02.2014. It is further submitted that the suspension is contrary to the provisions of Fundamental Rule 54-B(3) and (4) and that the disciplinary proceedings were dropped by the respondents themselves and no penalty was imposed against the petitioner. Learned counsel for petitioner relied upon the judgment passed by the Co-ordinate Bench of this Court in the case of ***Kanhaiya Lal Parmar v. State of M.P. & Others, reported in 2006 (2) MPLJ 522.*** Learned counsel for the petitioner also relied upon the judgment in ***Y.S. Sachan v. State of M.P. & Others, reported in 2004 (1) MPHT 22,*** to contend that petitioner is entitled to salary for the period of suspension.

3. Per contra, learned counsel for the respondent/State submits that the petitioner has rightly been suspended and as a consequence of the suspension, the petitioner is not entitled to salary for the period of suspension on the principle of “no work, no pay.” He supported the impugned order and prayed for dismissal of the petition.

4. Heard the learned counsel for parties and perused the record.

5. Perusal of the record reveals that the petitioner, who was appointed as Assistant Grade-III, was placed under suspension on 28.06.1997 while posted at Government Boys Higher Secondary School, Ganjbasoda, on account of a criminal case relating to the alleged misappropriation of scholarship money,



which was filed at the behest of the Principal. During suspension, he was attached to the office of the Block Education Officer, Ganjbasoda. Upon representation, the suspension was revoked on 18.01.2008. Subsequently, the petitioner was acquitted in the criminal case on 11.03.2011, and the departmental proceedings initiated on the same charges were dropped without imposition of any penalty on 25.02.2014. Despite such acquittal and exoneration, the suspension period from 28.06.1997 to 13.02.2008 was treated on the principle of “no work, no pay,” and full salary was denied.

6. This Court may draw assistance from two Supreme Court decisions in the case of **(1996) 11 SCC 603 (Ranchhodji Chaturji Thakore vs. Superintendent Engineer, Gujarat Electricity Board, Himmatnagar (Gujarat) and another)** and **(2004) 1 SCC 121 (Union of India and others vs. Jaipal Singh)**. The relevant extracts of these judgments are reproduced below for ready reference:

(1996) 11 SCC 603

“3. The reinstatement of the petitioner into the service has already been ordered by the High Court. The only question is whether he is entitled to back wages. It was his conduct of involving himself in the crime that was taken into account for his not being in service of the respondent. Consequent upon his acquittal, he is entitled to reinstatement for the reason that his service was terminated on the basis of the conviction by operation of proviso to the statutory rules applicable to the situation. **The question of back wages would be considered only if the respondents have taken action by way of disciplinary proceedings and the action was found to be unsustainable in law and he was unlawfully prevented from discharging the duties.** In that context, his conduct becomes relevant. Each case requires to be considered in its own backdrop. In this case, since the petitioner had involved himself in a crime, though he was



later acquitted, he had disabled himself from rendering the service on account of conviction and incarceration in jail. Under these circumstances, the petitioner is not entitled to payment of back wages. The learned Single Judge and the Division Bench have not committed any error of law warranting interference.”

(2004) 1 SCC 121

“4. On a careful consideration of the matter and the material on record, including the judgment and orders brought to our notice, we are of the view that it is well accepted that an order rejecting a special leave petition at the threshold without detailed reasons therefor does not constitute any declaration of law by this Court or constitute a binding precedent. Per contra, the decision relied upon by the appellant is one on merits and for reasons specifically recorded therefor it operates as a binding precedent as well. On going through the same, we are in respectful agreement with the view taken in Ranchhodji. If prosecution, which ultimately resulted in acquittal of the person concerned was at the behest of or by the department itself, perhaps different considerations may arise. On the other hand, if as a citizen the employee or a public servant got involved in a criminal case and if after initial conviction by the trial court, he gets acquittal on appeal subsequently, the department cannot in any manner be found fault with for having kept him out of service, since the law obliges a person convicted of an offence to be so kept out and not to be retrained in service. Consequently, the reasons given in the decision relied upon, for the appellants are not only convincing but are in consonance with reasonableness as well. Though exception taken to that part of the order directing reinstatement cannot be sustained and the respondent has to be reinstated in service, for the reason that the earlier discharge was on account of those criminal proceedings and conviction only, the appellants are well within their rights to deny back wages to the respondent for the period he was not in service. The appellants cannot be made liable to pay for the period for which they could not avail of the services of the respondent. The High Court, in our view, committed a grave error, in allowing back wages also, without adverting to all such relevant aspects and



considerations. Consequently, the order of the High Court insofar as it directed payment of back wages is liable to be and is hereby set aside.

5. The respondent will be entitled to back wages from the date of acquittal and except for the purpose of denying the respondent actual payment of back wages, that period also will be counted as period of service, without any break. The reinstatement, if not already done, in terms of the order of High Court will be done within thirty days from today.”

7. After hearing learned counsel for rival parties, this Court is of the considered view that distinction has to be drawn for the purpose of treating the period of absence as on duty and for pecuniary benefits. These are two different aspects on which competent authority has to apply its mind while exercising discretion under Fundamental Rule 53.

8. So far as aspect of denial of pecuniary benefits for the period of absence is concerned, this Court may refer to the observations made by Apex Court in the case of *Jaipal Singh (supra)* in para 4 as reproduced above **that if the acquittal is based on prosecution initiated by department itself then different consideration may arise. Meaning thereby that if the acquittal is founded on prosecution initiated by the employer then the employee may claim pecuniary benefits for the period of suspension.**

9. The coordinate Bench of this Court in WP No.8658/2018 dated 02.07.2018 in the case of *Babulal Jhad v/s The State of Madhya Pradesh & Others*. Relevant content of the order is reproduced below:-

“Having heard the learned counsel for parties and on perusal of the record, it is noticed that undisputedly the trial of the petitioner in the criminal case resulted into acquittal. Thereafter there is only an order of minor punishment of imposition of fine of Rs.10,000/-. The



division bench of this court in the matter of Umashankar Choubey Vs. Union of India and others 2006(2) MPHT 471 taking note of para (d) of Administrative Instructions contained in OM dated 28/3/1959 and F.R.54-B(3) has held that where a government servant is deemed to be under suspension on account of his detention exceeding 48 hours for a criminal charge and he is acquitted of the charges and is reinstated without taking disciplinary proceedings against him, he has to be paid full pay and allowances for the period of suspension. In the other judgments in the matter of Dattatraya Vasudeo Kulkarni Vs. Director of Agriculture, Maharashtra & others 1984 Mh.LJ 406, Brahma Chandra Gupta Vs. Union of India (1984) 2 SCC 433, Lehna Singh Vs. State of Haryana and another 1999 SCC OnLine P & H 1487, Ramsinhji Viraji Rathod, Parmanand Society Vs. The State of Gujarat and another 1970 SCC OnLine Guj 43 and Mohan Lal Vs. Union of India & Others ILR (1981) II Delhi 1037 also it has been held that if after revocation of suspension if only minor penalty is imposed then on revocation of suspension the employee concerned is entitled to the salary for the suspension period. Counsel for petitioner has also placed reliance upon the subsequent circular of the GAD No.F6-3-77-3-1 dated 15/9/1977 and has submitted that even in cases of termination on account of conviction by the trial court and acquittal in appeal the direction is to treat the period on duty and pay the full salary and allowance. In this regard, he has also placed reliance upon the judgment of Jharkhand High Court in the matter of Prasenjit Ghosh Vs. State of Jharkhand and others 2004 AIR Jhar 2134.

Having regard to the aforesaid factual and legal position, I am of the opinion that the respondents are not justified in denying full salary to the petitioner for the suspension period. Hence, the impugned orders to that extent are set aside and the respondents are directed to pay difference of salary and allowances to the petitioner for the period he had remained under suspension. The writ petition is accordingly disposed of.”

10. The co-ordinate Bench of this Court in the case of **Y.S. Sachan (supra)** has held as under:



“8. So far as the salary for the period of suspension is concerned, the petitioner should be paid full salary. A minor penalty has been imposed upon the petitioner. The punishment is so light and therefore the petitioner could not be saddled with the heavier penalty of depriving him the salary for the suspension period. This part of the impugned order is not a speaking order. No reasons have been assigned for depriving the petitioner of his salary for the suspension period. The Government of India has issued a circular dated 3-12-1985 stating there in that where departmental proceedings against a suspended employee for the imposition of a major penalty finally end with the imposition of a minor penalty, the suspension can be said to be wholly unjustified in terms of F.R. 54-B and the employee concerned should, therefore, be paid full pay and allowances for the period of suspension by passing a suitable order under F.R. 54-B. The guideline issued by the Central Government for its employees is just and reasonable and it should be followed by the State Government and its instrumentality. The Jabalpur Development Authority is also such instrumentality and it will also be governed by such interpretation of Rule 54-B of the Fundamental Rules.”

11. Keeping in view the facts and circumstances of the case and **the fact that back wages can be considered only where disciplinary action is taken an action and such action is found to be unsustainable in law, resulting in unlawful prevention of the employee from discharging his duties.** If the criminal proceedings, which ultimately ends in acquittal, is initiated at the behest of the department, different considerations may arise. However, where an employee, as a citizen, becomes involved in a criminal case but later acquitted the department cannot be faulted for keeping him out of service, as law mandates such exclusion. After revocation of suspension, if department has initiated an inquiry and in that inquiry it has been found that delinquent is liable for a minor penalty then also the employee is entitled to salary for the suspension period.



Since even a minor and light punishment has not been imposed upon the petitioner, he cannot be deprived of salary for the suspension period. Reliance was placed on the Government of India circular dated 03.12.1985, which provides that if departmental proceedings initiated for a major penalty ultimately culminate in a minor penalty, the suspension is to be treated as wholly unjustified under F.R. 54-B, entitling the employee to full pay and allowances for the suspension period. In the present case in hand as department has initiated the inquiry but it was not concluded and upon acquittal of the petitioner in criminal case the departmental inquiry has also been dropped set aside so petitioner is on better footing as the case of Y.S. Sachan (supra) as the minor or major penalty has not been imposed upon petitioner. It is at the behest of department (Principal) a criminal case has been filed which resulted in suspension of petitioner it cannot be said that the said suspension has been imposed due to the conduct of petitioner. For this reason different consideration in respect of back wages has to be done.

12. In view of the aforesaid, this Court is of the considered opinion that the action of the respondents in treating the suspension period on the principle of “no work, no pay” is unsustainable in law. The suspension having culminated in the complete exoneration of the petitioner, both in the criminal as well as departmental proceedings, the entire suspension period is liable to be treated as duty. In the reply, it has also not been stated by the respondents that the petitioner was not present at the headquarters during the period of suspension. As the disciplinary authority has not imposed any punishment upon the petitioner by way of departmental proceedings and the petitioner has also been acquitted in the



criminal case registered against him, **therefore, the suspension against him is wholly unjustified.**

13. Keeping in view the facts and circumstances of the case, this petition is disposed of. The impugned order dated 25.02.2014 (Annexure P/1), to the extent it denies the petitioner full salary for the period of suspension from 28.06.1997 to 13.02.2008, is hereby **quashed**. The respondents are directed to treat the aforesaid suspension period as duty period and to pay petitioner full salary, meaning thereby the respondents are directed to pay difference of salary and allowances to the petitioner for the period he had remained under suspension and all consequential benefits, along with arrears, within a period of **three months** from the date of receipt of certified copy of this order.

14. If the respondents do not pay the full salary and all consequential benefits along with arrears to petitioner within a period three months then the petitioner shall be entitled to interest at the rate of 6% per annum from the date of entitlement till the date of actual payment.

15. With the aforesaid, present petition stands ***disposed of***.

16. Pending interlocutory application, if any, is also disposed of.

(Anand Singh Bahrawat)
Judge

Ahmad