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WA-1282-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE PUSHPENDRA YADAV

ON THE 7th OF AUGUST, 2025

WRIT APPEAL No. 1282 of 2025

LALARAM DOHARE

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

None for the appellant.

*Shri Ankur Mody - Additional Advocate General for the
respondents/State.*
.....

ORDER

Per. Justice Anand Pathak

The instant writ appeal is preferred against the order dated 20.02.2025 passed in Writ Petition No.6073/2025, whereby writ petition preferred by the appellant stood dismissed.

2.Precisely stated facts of the case are that appellant (petitioner in writ petition) was posted on the post of Panchayat Coordinator Officer, Janpad Panchayat, Bhitwar, and he stood retired from the services on 31.03.2024. During the subsistence of service, appellant was suspended vide order dated 11.04.2022 on the ground that appellant did not complete verification work of the beneficiaries under Pradhan Mantri Awas Yojna Scheme. Charge-sheet issued, but allegations in charge-sheet were denied. Departmental



enquiry was conducted and appellant was ultimately saddled with penalty of Censure under Rule 10(1) of the Madhya Pradesh Civil Service (Classification, Control and Appeal) Rules, 1966 (hereinafter shall be referred to as "the Rules of 1966") and order of "no work no pay" was passed for the period of suspension.

3. Against the said order of penalty and applying the principle of "no work no pay" for the period of suspension, appellant preferred writ petition and took the plea that as per circular dated 13.01.2005 if a delinquent employee is saddled with minor penalty in departmental enquiry, then suspension period shall be adjusted to be treated as on duty and emoluments shall be paid accordingly.

4. Learned Writ Court dismissed the writ petition on the ground that F.R.54-B(3) does not contemplate such exigency and an executive instruction cannot overrule statutory rules. Therefore, the appellant is before this Court.

5. Heard the arguments.

6. This is a case where appellant underwent rigours of departmental enquiry and saddled with punishment of "Censure" under Rule 10(1) of the Rules of 1966 and suspension period was directed to be treated as "no work no pay".

7. Chapter VIII of the Fundamental Rules deals in respect of Dismissal, Removal and Suspension. F.R.53, F.R.54, F.R.54-A and F.R.54-B deal in respect of different exigencies arise when a delinquent employee is placed under suspension.



8. Perusal of the Rules reflect the very spirit of the Rules. All these Rules are meant to disburse subsistence allowance and even amount higher to subsistence allowance (not exceeding 50% of the subsistence allowance admissible). It indicates the legislative and executive intent to give subsistence allowance and other suitable amount during suspension period, rather than denying any allowance to the employee during suspension period. Therefore, F.R.53, F.R.54, F.R.54-A and F.R.54-B are to be seen in juxtaposition to reach some tangible conclusions. Picture emerges thus -

(i) Delinquent employee may get subsistence allowance or an amount equal to the leave salary which the Government servant would have drawn, if he had been on leave on half average pay or on half pay and in addition, dearness allowance, if admissible on the basis of such leave salary;

(ii) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50 per cent of the subsistence allowance admissible ;

(iii) after revocation of suspension competent authority to order reinstatement shall consider and make a specific order regarding the pay and allowances to be paid to the Government servant for the period of suspension ending with reinstatement or the date of his retirement (including premature retirement), as the case may be;

(iv) authority shall make a specific order whether or not the said period shall be treated as a period spent on duty;

(v) where the competent authority to order reinstatement is of the opinion that the suspension was wholly unjustified, the Government servant



shall, subject to the provisions of F.R.54-B(8) be paid full pay and allowances to which he would have been entitled, had he not been suspended;

(vi) the payment of allowances under sub-rule (2), sub-rule (3) or sub-rule (5) shall be subject to all other conditions under which such allowances are admissible; and

(vii) the amount determined under the proviso to sub-rule (3) or under sub-rule (5) shall not be less than the subsistence allowance and other allowances admissible under Rule 53.

9. Since present case is having factual bearing where minor penalty of Censure was awarded to the employee, therefore, suspension in this case was wholly unjustified. Suspension is Colonial administrative invention to keep an employee away from his position of power when departmental enquiry is pending against him, so as to avoid any mischief or influence in the enquiry. If departmental enquiry results into minor penalty, impliedly it means that employee was placed under suspension on flimsy ground. Therefore, suspension is treated unjustified. Placing the employee under suspension means department could not avail services of the employee, still had to pay the subsistence allowance. Therefore, loss is of public money and State resources.

10. Therefore, in case of unjustified suspension, employee becomes entitled for treating the period as spent on duty. However, this thought has a caveat which is reflected in proviso appended to F.R.54-B(3) and F.R.53(1) (ii) etc. Therefore, if the authority is of the opinion that enquiry proceedings



were prolonged because of conduct of the employee, then such pay and allowances as authority may determine would be awarded which would certainly be less than the whole pay and allowances.

11. Here in the present case, no such fact has been mentioned by the respondents/State that appellant caused delay in termination of proceedings instituted against him. Therefore, circular dated 13.01.2005 comes to his benefit. Relevant contents of the circular are reproduced as under :-

"6. मुख्य शास्ति हेतु संस्थित विभागीय जांच में यदि किसी निलंबित शासकीय सेवक पर जांच उपरांत लघु शास्ति ही अधिरोपित की जाती है तो उसका निलंबन औचित्यपूर्ण नहीं माना जा सकता। अतः राज्य शासन ने निर्णय लिया है कि ऐसे मामलों में संबंधित शासकीय सेवक की निलम्बन अवधि को मूलभूत नियम 54-बी के परिप्रेक्ष्य में कर्तव्य अवधि मान्य कर निलम्बन अवधि के सम्पूर्ण वेतन भत्ते (शासकीय सेवक को निलम्बन अवधि में भुगतान किए गए "जीवन निर्वाह भत्ते" की राशि का समायोजन कर) दिए जाएं। यह निर्णय इस जापन के प्रसारित होने की तिथि से लागू होगा तथा जिन प्रकरणों में निर्णय लिया जा चुका है, वे पुनः नहीं खोले जाएंगे।"

12. Earlier Single Bench of this Court in the case of **Y.S.Sachan vs. State of Madhya Pradesh and others**, 2004(1) M.P.H.T. 22 discussed peripherally of this concept and referred circular dated 03.12.1985 issued by the Government of India in its discussion.

13. So far as the law discussed in the impugned order regarding F.R.54-B vis-a-vis circular dated 13.01.2005 is concerned, on close scrutiny, it appears that the said circular dated 13.01.2005 is in fact complimentary/supplementary to F.R. 54-B(3) and does not supplant the Rules. The circular in fact echoes the spirit of F.R.54-B and not otherwise. The whole Chapter VIII of the Fundamental Rules revolves around grant of subsistence allowance/ other permissible allowances to an employee who is placed under suspension (and related contingencies).



14. Therefore, in attending facts and circumstances of the case, once departmental enquiry resulted into minor penalty, then normally suspension becomes unjustified. Ergo, employee becomes entitled to get award of full pay and allowances as if spent on duty. In exceptional circumstances, where employee himself prolonged enquiry or caused delay in termination of enquiry, then in that condition, competent authority is always at discretion as per F.R.54-B(3) to decide on attending facts and circumstances of the case about quantum of pay and allowances.

15. Therefore, in view of the discussion made hereinabove, impugned order pales into oblivion. Impugned order dated 20.02.2025 passed by the learned Writ Court is hereby set aside. Competent authority to pass an order to treat the period of suspension as if spent on duty and consequently award pay and allowances after due calculation. Needful be done within two months from the date of this order.

16. The appeal stands **allowed** and disposed of in above terms.

(ANAND PATHAK)
JUDGE

(PUSHPENDRA YADAV)
JUDGE

ms/-