

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

**AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE PUSHPENDRA YADAV

ON THE 15th OF SEPTEMBER, 2025

WRIT APPEAL No. 2397 of 2025

PRATAP SINGH

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

APPEARANCE:

***Shri Surya Pratap Singh, Advocate on behalf of Shri D.P.Singh,
learned counsel for the appellant.***

***Shri Ankur Mody, learned Additional Advocate General with
Shri Sohit Mishra, learned counsel for respondents/State.***

ORDER

Per. Justice Pushpendra Yadav

By way of instant appeal filed under Section 2 (1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005, the appellant has challenged order dated 16.07.2025 passed in W.P.No.165/2024, whereby writ petition preferred by petitioner was dismissed claiming the benefit of pay and allowances for the period of suspension.

2. Draped in brevity, facts of the case are that appellant was working

as Camp Attendant in Water Resources Department and was posted in the Office of Sub-Divisional Officer (E&E) at Gwalior. A criminal case was registered against appellant for offence punishable under Sections 323, 294, 506/34 of IPC and Section 3(1)(r) and (s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In pursuance to the same, present appellant was arrested on 22.07.2017 and was remained in custody up to 26.07.2017. On account of said arrest, he was placed under suspension w.e.f. 22.07.2017. Subsequently, vide judgment dated 17.12.2011, he was acquitted in criminal case and on account of said acquittal, his suspension was revoked vide order dated 18.02.2022. After revocation of his suspension, authority has passed order on 12.05.2022 thereby treating period of suspension i.e. from 22.07.2017 to 18.02.2022 towards service for all purposes except pay and allowances. The said order was challenged in writ petition which was dismissed by impugned order dated 16.07.2025, hence the present appeal.

3. Contention of appellant is that his suspension was totally unjustified because he was suspended on account of criminal case in which he was subsequently acquitted and the reason, account of which he was placed under suspension, now does not exist. Therefore, he is entitled for full pay and allowances for the period in which he was placed under suspension. It was further argued by counsel for appellant that learned writ Court has misconstrued the Fundamental Rule. As the appellant was falsely implicated in the crime in which he was acquitted, therefore, as per Rule 54-B of M.P. Fundamental Rules, 1956 (hereinafter referred as 'FR') he is entitled to get full pay and salary for the intervening period.

4. Learned Additional Advocate General appearing on behalf of State supported the impugned order passed by learned writ Court and stated that appellant was involved in criminal case because of his own acts and Department was not instrumental in his prosecution, therefore, suspension on account of the same, cannot be said to be unjustified. Under F.R.54-B, it is for the Competent Authority to form an opinion whether the suspension of employee is justified or not and if the authority comes on conclusion that suspension is totally unjustified, then only employee is held to be entitled for pay and allowances for intervening period. In the present case, the order of suspension cannot be said as unjustified, therefore, appellant is not entitled for any pay and allowances for the period in which he was placed under suspension.

5. Heard the counsel for the parties at length and perused the record.

6. Before dealing with the rival contentions of the parties it is necessary to quote the following provisions of Rules:-

F.R.54-B. (1) When a Government servant who has been suspended is reinstated or would have been so reinstated but for his retirement on superannuation while under suspension, the authority competent to order reinstatement shall consider and make a specific order-

- (a) 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 on superannuation as the case may be; and
- (b) whether or not the said period shall be treated as a period spent on duty.

(2) Notwithstanding anything contained in rule 53, where a Government servant under suspension dies before the disciplinary or court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for that period to which he would have been entitled had he not been suspended, subject to adjustment in respect of subsistence allowance already paid.

(3) Where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified, the Government servant shall, subject to the provisions of sub-rule (8), to be paid the full pay and allowances to which he would have been entitled, had he not been suspended:

Rule 9 of M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter referred as 'Rules 1966')

9. (1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Governor by general or special order, may place a Government servant under suspension-

- (a) where a disciplinary proceeding against him is contemplated or is pending, or
- (b) where a case against him in respect of any criminal offence is under investigation, inquiry of trial :

[Provided that a Government servant shall invariably be placed under suspension when a challan for a criminal offence involving corruption or other moral turpitude is filed against him :]

Provided further that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

(2) A Government servant shall be deemed to have been placed under suspension by an order of appointing authority-

(a) with effect from the date of his detention, if he is detained in custody whether on a criminal charge or otherwise for a period exceeding forty-eight hours;

(b) with effect from the date of his conviction, if, in the event of conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

7. As per F.R.54-B, on reinstatement of employee on revocation of suspension if competent authority formed an opinion that the suspension was wholly unjustified, then only the employee become entitled for full pay and allowances for the period in which he was placed under suspension. For full pay and allowances for intervening period, suspension order has to be wholly unjustified in the opinion of

the Competent Authority.

8. Rule 9 (1) of Rules 1966, confers discretion to the Appointing / Disciplinary/ Competent Authority to place any employee under suspension on condition stipulated in Rule 9 (1) (a) and (b) of Rules 1966. Suspension under Rule 9 (1) (a) and (b) is dependent upon discretion of the authority on the condition prescribed therein except the proviso of Rule 9(1) (b) of Rules 1966 which is mandatory in nature.

9. As per Rule 9 (2) of Rules 1966, the employee is deemed to be placed under suspension by order of appointing authority w.e.f. his detention if he is detained in custody for the period exceeded 48 hours. The said Rule does not confer any discretion to the authority whereas as per the deeming clause, the employee has to be placed under suspension if he is detained for the period of 48 hours. The authority has left with no other option but to place the employee under suspension in the case of detention -more than 48 hours.

10. As in the present appeal, appellant was arrested on 22.07.2017 in pursuance to the criminal case and he was remained in custody up to 26.07.2017 which is more than 48 hours, therefore, he was placed under suspension w.e.f. 22.07.2017. The said suspension on account of arrest in a criminal case which was under Rule 9(2)(a) (deeming clause) of Rules 1966 on account of custody for more than 48 hrs., the authority had no other option but to place employee under suspension under the deeming clause of Rule 9(2)(a) of Rules 1966. Therefore, the said suspension cannot be treated as unjustified even in case of acquittal also, because at the time of suspension it was justified under deeming clause of Rule 9(2) of Rules 1966.

11. Once it is held that suspension of employee was not wholly

unjustified, he cannot be held entitled to pay allowances for the period of suspension. As at the time of suspension, there was no other option but to suspend the appellant on account of his custody in a criminal case. Merely because he was acquitted, the said suspension of petitioner which was under the statutory rules cannot be treated as wholly unjustified.

12. In view of discussion made above, this Court is of the considered opinion that impugned order passed by writ Court is justified and does not warrant any interference. Accordingly, order passed by learned writ Court is hereby affirmed and Writ Appeal is hereby **dismissed**.

Ashish*

(ANAND PATHAK)
JUDGE

(PUSHPENDRA YADAV)
JUDGE