

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

**BEFORE**

**HON'BLE SHRI JUSTICE ANAND PATHAK  
&  
HON'BLE SHRI JUSTICE HIRDESH**

**ON THE 15<sup>th</sup> OF APRIL, 2025  
WRIT APPEAL NO. 956 of 2025**

**SMT. SARIKA SHRIVASTAVA  
Vs.  
STATE OF MADHYA PRADESH & ORS.**

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**APPEARANCE:**

*Shri Anil Saxena – Advocate for the appellant.  
Shri Ankur Mody – Additional Advocate General for the  
respondents/State.*

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**JUDGMENT**

***Per: Justice Anand Pathak***

1. The present appeal under Section 2 (1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 is preferred by the appellant (hereinafter referred to as “the petitioner”) being crestfallen by the order dated 01-03-2025 passed by learned Single Judge in Writ Petition No.24188 of 2018; whereby, the writ petition filed by the petitioner has been dismissed.
2. Matter pertains to non grant of pay of the period wherein petitioner remain absent and suspended. On the complaint with regard to absence of petitioner on duty and putting the signature in attendance register, District Education Officer, Morena issued a show cause notice to the petitioner dated 08-09-2016 and reply was solicited from petitioner. Thereafter, since petitioner did not submit any reply

to the show cause notice, therefore, the District Education Officer, Morena vide its order dated 11-01-2018 passed the order of punishment of stoppage of two increments without cumulative effect and further she was deprived of the pay and allowances during the period of suspension except subsistence allowance. Petitioner challenged the said order by preferring writ petition before learned Writ Court which was dismissed, therefore, petitioner is before this Court.

3. It is the submission of learned counsel for the petitioner that she is working as Teacher and a departmental enquiry was held against her. Later on, she was inflicted with punishment of stoppage of two increments without cumulative effect. She remained suspended for some period. Further she is aggrieved by that part of the order dated 11-01-2018 (Annexure P/1) wherein she was found entitled only for subsistence allowance and her period of suspension for pay benefit etc. is not considered as per FR 54-B. He relied **Y.S. Sachan Vs. State of Madhya Pradesh, 2003 (4) MPLJ 219**. It is further submitted that learned Writ Court did not consider the material aspect of the matter and erred in dismissing the petition preferred by the petitioner. Thus, prayed for setting the orders impugned.
4. Learned counsel for the respondents/State while supporting the order passed by learned Writ Court opposed the submission and prayed for dismissal of this appeal.
5. Heard learned counsel for the parties and perused the documents appended thereto.
6. This is a case where petitioner is seeking salary of the period

wherein she remained suspended and remained absent from duty. Petitioner was facing the serious allegations of absence on duty and marking her presence in the attendance register. Petitioner did not even choose to submit reply to such serious allegations and remained ex-parte in the departmental proceedings, therefore, the departmental proceedings were proceeded without reply of the petitioner and thereafter, punishment order was passed against her.

7. Allegation against the petitioner was of absentism and despite that she managed to mark her present in the attendance register of the school, therefore, the punishment as imposed upon the petitioner of stoppage of two increments without cumulative effect, cannot be said to be unjustified particularly when petitioner herself did not choose to file reply to the show cause notice.
8. From perusal of record, it appears that the departmental proceedings initiated against the petitioner were culminated into the punishment order finding her to be guilty of absence from the duty. Further the departmental appeal and review preferred by the petitioner have also been dismissed by the respondents. The judgment cited by the petitioner move in different factual realm because in the case cited, against the delinquent departmental proceedings for major punishment were initiated and thereafter he has been saddled with minor punishment.
9. Learned Writ Court considered all the factual details in correct perspective and application of law was proper. Relevant discussion worth reproduction is reproduced as under:

*“The question regarding pay and allowance for the*

*period of suspension is required to be considered. The minor penalty proceedings initiated against the petitioner culminated into passing of the punishment order; therefore, it cannot be said that the suspension of the petitioner was wholly unjustified. She has been paid subsistence allowance during the period of suspension, therefore, no fault can be found with the action of the authority, if she has been denied full pay and allowances for the period of suspension.*

*Learned counsel for the petitioner has placed reliance upon the judgment delivered in the case of Y.S. Sachan vs. State of M.P. reported in 2003 (4) MPLJ 219, to buttress his submissions. In view of said judgment, it is submitted that the petitioner should be paid full pay and allowance for the period of suspension. In the case of Y.S. Sachan (supra) major penalty proceeding was initiated upon the incumbent which concluded in imposition of minor penalty. In those circumstances, this Court held that the suspension of incumbent was not justified. However, in the instant case, minor punishment proceeding was initiated in which minor penalty of stoppage of two increments without cumulative effect has been imposed on the petitioner. Therefore, suspension cannot be said to be unjustified and decision of the authority denying benefit of full pay and allowance to the petitioner for the period of suspension cannot be said to be illegal and unjustified.”*

10. Considering the rival submission and the discussion surfaced in the

impugned order, it appears that no case for interference is made out. Petitioner failed to establish her case. Accordingly, the order passed by learned Writ Court is hereby affirmed and the writ appeal preferred by the petitioner is hereby dismissed.

**11. Appeal stands dismissed.**

Anil\*

**(ANAND PATHAK)**  
**JUDGE**

**(HIRDESH)**  
**JUDGE**