

**IN THE HIGH COURT OF JUDICATURE FOR MADHYA
PRADESHAT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE PURUSHAINDR KUMAR KAURAV

ON THE 7th OF MARCH, 2022

WRIT PETITION No. 4815 of 2017

Between:-

**RAM PRASAD BANSAL, S/O SHRI MUNNI
LAL BANSAL, AGED ABOUT 50 YEARS, HEAD
CONSTABLE NO.859, R/O RAJAKHEDI,
MAKRONIA POLICE STATION PADMAKAR
NAGAR, TEHSL AND DISTRICT SAGAR
(MADHYA PRADESH)**

.....PETITIONER

(BY SHRI PRAKASH UPADHYAY, ADVOCATE)

AND

- 1. STAE OF MADHYA PRADESH, THROUGH ITS
PRINCIPAL SECRETARY, MINISTRY OF
HOME AFFAIRS, "MANTRALAYA" VALLABH
BHAWAN, BHOPAL (MADHYA PRADESH)**
- 2. DIRECTOR GENERAL OF POLICE, POLICE
H.Q. BHOPAL (MADHYA PRADESH)**
- 3. DEPUTY INSPECTOR GENERAL OF POLICE,
DIVISION SAGAR, DISTRICT SAGAR
(MADHYA PRADESH).**
- 4. SUPERINTENDENT OF POLICE SAGAR,
DISTRICT SAGAR (MADHYA PRADESH)**

....RESPONDENTS

(BY SHRI RITWIK PARASAR, GOVERNMENT ADVOCATE)

*This petition coming on for admission this day, this court
passed the following:*

ORDER

The petitioner has filed the instant petition against the order dated
13.07.2012 (Annexure-P-1) and order dated 18.09.2014 (Annexure-P-2).

2. The case of the petitioner is that Lokayukt Special Police Establishment (hereinafter referred to as 'SPE' for short) had registered an offence against the petitioner as Crime No.246/2011 under the provisions of Prevention of Corruption Act, 1988. After completion of the investigation, a charge sheet was filed and after full fledged trial vide judgment dated 01.08.2014 in Special Case No.03/2012, the petitioner has been acquitted from all the charges. The employer of the petitioner had also proceeded against the petitioner and vide order dated 19.06.2012, his services were terminated. However, in an appeal against the penalty of termination, the petitioner was discharged vide order dated 30.06.2012 by the appellate authority.

3. According to learned counsel appearing for the petitioner, once the petitioner has been given a clean chit in a criminal trial and no misconduct has been found by the department, therefore, there is no justification with the respondent-employer to continue to keep the petitioner under suspension. According to him, the order of suspension dated 30.07.2012 (Annexure-P-1) should be revoked by the employer. The petitioner also submits that when he submitted the representation dated 27.08.2014, the same has also been rejected by the employer vide order dated 18.09.2014 (Annexure-P-2) while referring the circular dated 15.12.1979 to show that since the appeal against the judgment of acquittal is pending, therefore, the order of suspension cannot be revoked. He places reliance on a decision of this Court in the case of *Arun Kumar Mishra Vs. State of M.P. and others*¹ where while considering the earlier decision of this Court in the matter of *Ram Ratan Tiwari Vs. State of M.P. and others*² and *M.P. State Civil Supplies Corporation Ltd. Vs. Vinod Kumar Salve*³, this Court has been pleased to observe that the Executive Instructions dated 15.12.1979, would not override the provisions of M.P. Civil Services (Classification, Control & Appeal) Rules, 1966.

1 W.P. No.14732 of 2019, dt. 13.11.2019

2 2002 (4) MPLJ 401

3 2008 (4) MPLJ 235

4. Learned counsel appearing for the State opposes the prayer and he submits that the circular dated 15.12.1979 is very clear and the said circular says that if even an employee is acquitted by a Criminal Court and if the appeal is pending, the suspension of an employer should not be revoked. He also submits that the Special Police Establishment has preferred M.Cr.C.No.20294/2014, which is an application for Leave to Appeal and the Division Bench of this Court on 13.08.2015 has been pleased to grant Leave to Appeal and presently Criminal Appeal No.2192/2015 is pending against the petitioner and, therefore, no interference should be made.

5. The Division Bench of this Court in the matter of **Ramratan Tiwari**² was considering the case of one Assistant Jailer, working in the Jail department, Government of Madhya Pradesh, who was acquitted in a criminal trial. Since after acquittal he was not reinstated in the services, therefore, he challenged the action of the department in that case. This Court while considering Rule 9(1)(b) of M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter referred to as 'The CCA Rules'), observed that one of the circumstances for placing the Government servant under suspension is that a case against him with respect to any criminal offence is under investigation, enquiry or trial. Once the investigation, enquiry or trial is over after announcement of the judgment of acquittal, the provisions of Rule 9(1)(b) of the CCA Rules stands exhausted.

6. In another decision of the Division Bench of this court in the matter of **M.P. State Civil Supplies Corporation Ltd.**³, while placing reliance on the decision of **Ram Ratan Tiwari**², it has been held that when there is an order of acquittal in a criminal case, there cannot be deemed suspension as the CCA Rules do not prescribe to keep officer under suspension even after acquittal in a criminal case. This Court in the matter of **Arun Kumar Mishra**¹ has considered the circular dated 15.12.1979 and the effect of pendency of an appeal against the judgment of acquittal. While considering those aspects it has been held that the circular which is only an executive

instructions would not override the provisions of law and, hence, the petition in that case was allowed.

7. Having considered the submissions made by the rival parties, this Court is of the considered opinion that the petition must succeed. The impugned order of rejection of representation dated 18.09.2014 (Annexure-P-2) is set aside. The respondent employer is directed to pass an appropriate consequential order of revocation of suspension of the petitioner, in accordance with law.

8. With the aforesaid, the writ petition stands disposed off.

(PURUSHAINDR KUMAR KAURAV)
JUDGE

A.Praj.