



2025:CGHC:17141

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1473 of 2021

1 Ram Prasad Nayak S/o Bhagbali Nayak Aged About 67 Years R/o Shanti Vihar Colony, Dangniya Raipur, District Raipur Chhattisgarh.,
District : Raipur, Chhattisgarh

... Petitioner(s)

versus

1 State Of Chhattisgarh Through Secretary, Department Of Energy, Mantralay Atal Nagar, Naya Raipur (Chhattisgarh), District : Raipur, Chhattisgarh

2 Chhattisgarh State Power Distribution Company Limited, Through Managing Director (Cspdcl) Dangniya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

3 Superintendent Engineer Chhattisgarh State Power Distribution Company (Civil- Distribution), Cercal C-6, Gudiyari Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

... Respondent(s)

(Cause title is taken from Case Information System)

For Petitioner : Mr. Hemant Kesharwani, Advocate

For Respondents/ : Ms. Akanksha Verma, P.L.

State

For Respondent No. 2 : Dr. Veena Nair, Advocate
& 3

(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)

Order on Board

15/04/2025

1. The challenge in this writ petition is to the order dated 05.02.2021 (Annexure P-1) (in the relief clause wrongly mentioned as 05.02.2019) by which the respondent/ CSPDCL declined to grant back-wages to the petitioner.
2. The case of the petitioner, as projected in the writ petition, is that the petitioner was initially appointed in the Electricity board in the year 1977. Subsequently, he was promoted to the post of Supervisor (Civil) in the year 1995. According, to the petitioner one Manshukh Lal made a complaint to the Anti Corruption Bureau, Raipur against the Additional Superintendent Engineer and the petitioner in respect of illegal demand of bribe and in the said proceeding, the FIR was registered for offence under Sections 7, 13 (1) (d), 13 (2) of Prevention of Corruption Act, 1988. On account of registration of FIR, the petitioner has been placed under suspension by order dated 12.10.2007. Since the trial could not be concluded within a period of 3 years the suspension period has been revoked by order dated 04.09.2010. In the meantime, after completion of trial, the petitioner has been convicted by the Court of Special Judge (Prevention of Corruption

Act) Raipur, C.G. The said conviction has been challenged by the petitioner before this Court in Cr. A. No. 1153/2012. Owing to conviction imposed by the Trial Court, the petitioner has been terminated from the services by order dated 01.04.2013. The Cr. A No. 1153/2012 has been allowed by this court vide judgment dated 08.05.2020 and the petitioner has been acquitted from the charges. In the meanwhile, the petitioner retried from service on 31-8-2018. Thus, after acquittal the petitioner made several representations before the authorities seeking back-wages. However, by the order impugned the representation of the petitioner has been rejected and petitioner was declined to grant back-wages. Hence this petition.

3. Learned counsel for the petitioner would submit that the petitioner is entitled for back-wages by virtue of Rule 54-B of the Fundamental Rules, therefore, the impugned order is liable to be set aside and the writ petition deserves to be allowed. He further placed reliance on Arun Kumar Sharma Vs. State of C.G.(WPS NO. 3904 of 2020) and Abdul Rahman Ahmed Vs. State of C.G. (WPS No. 3899 of 2006) passed by co-ordinate bench of this court.
4. Learned counsel appearing for the respondents, would submit that Rule 54-B of the Fundamental Rules would apparently be not applicable in case of the petitioner, as the petitioner was not placed under suspension and not reinstated in service on revocation of said suspension and he was not under suspension for the period of his absence, rather he was dismissed from

service pursuant to his conviction in criminal case by the jurisdictional criminal court, therefore, the said Fundamental Rule would not be applicable to him and he would not be entitled for back-wages. In light of the decision of the Supreme Court in the matter of **Ranchhodji Chaturji Thakore v. Superintendent Engineer, Gujarat Electricity Board, Himmatnagar**¹, he would not be entitled for back-wages. As such, the writ petition deserves to be dismissed.

5. In order to answer the questions formulated herein-above, it would be appropriate to notice Rule 54-B(1) of the Fundamental Rules, which states as under: -

F.R. 54-B (1) When a Government servant who has been suspended, is re-instated or would have been so re-instated but for his retirement on superannuation while under suspension, the authority competent to order re-instatement 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 re-instatement 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.”

6. A careful perusal of sub-rule (1) of Rule 54-B of the Fundamental Rules would show that 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 competent authority to order reinstatement shall consider and make a specific order regarding the pay and allowances to be

1 (1996) 11 SCC 603

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 whether or not the said period shall be treated as a period spent on duty. However, it is not the case of the petitioner that he was placed under suspension and directed for reinstatement while revoking the suspension, as he was terminated from service on conviction of criminal charges by the jurisdictional criminal court, therefore, Rule 54-B of the Fundamental Rules would not be applicable.

7. A Division Bench of the M.P. High Court in the matter of **Munnalal Mishra v. Union of India and others**² considered the issue threadbare with regard to applicability of Rules 54, 54-A & 54-B of the Fundamental Rules and held that when a Government servant is dismissed or removed or compulsorily retired, not in pursuance of any disciplinary proceedings, but without inquiry on the ground of conviction in a criminal case, then F.R. 54, 54-A and 54-B would not apply and F.R. 17(1), which deals with 'no work, no pay', would apply. It has been observed in paragraph 10 of the report as under: -

“10. But when a Government (or Railway) servant is dismissed or removed or compulsorily retired, not in pursuance or any disciplinary proceedings, but without inquiry on the ground of conviction in a criminal case, then F.R. 54, 54-A and 54-B (or corresponding Rules 1343, 1344 and 1345 of Railway Code) would not apply. As a consequence, we will have to fall back on the general principles and Fundamental Rule No. 17 (1) which provides that no work will mean no pay. Therefore, the Government (or Railway) servant will not be entitled to any pay for the

2 2005(3) M.P.H.T. 125 (DB)

period when he was not in service. He will be entitled to be reinstated from the date of acquittal. If he is not reinstated on acquittal, he will be entitled to pay and allowances from the date of acquittal. This position is made clear by the Supreme Court in several decisions.”

8. This issue in hand is also well settled and no longer *res integra* and it stands conclusively determined by their Lordships of the Supreme Court by their judgment first of all in **Ranchhodji Chaturji Thakore** (supra) in which their Lordships have considered a case where an employee was dismissed from service on account of his conviction by a criminal court for his involvement in an offence under Sections of Prevention of Corruption Act and subsequently, he was acquitted and as a consequence, reinstated. Their Lordships while considering the issue whether back-wages should be paid to the employee for the period between the date of dismissal and the date of reinstatement held as under: -

"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."

9. Similarly, in the matter of **Union of India v. Jaipal Singh**³, the principle of law laid down in **Ranchhodji Chaturji Thakore** (supra) has been followed with approval.

10. In the matter of **Management of Reserve Bank of India, New Delhi v. Bhopal Singh Panchal**⁴, the Supreme Court has considered a provision in the service regulation which provided that an employee, who is absent from duty without any authority, shall not be entitled to any pay and allowance during the period of such absence (similar to F.R. 17) and held as under: -

"15. ... It is only if such employee is acquitted of all blame and is treated by the competent authority as being on duty during the period of suspension that such employee is entitled to full pay and allowances for the said period. In other words, the Regulations vest the power exclusively in the Bank to treat the period of such suspension on duty or on leave or otherwise. The power thus vested cannot be validly challenged. During this period, the employee renders no work. He is absent for reasons of his own involvement in the misconduct and the Bank is in no way responsible for keeping him away from his duties. The Bank, therefore, cannot be saddled with the liability to pay him his salary and allowances for the period. That will be against the principle of 'no work, no pay' and positively inequitable to those who have to work and earn their pay. ..."

11. In the matter of **State Bank of India and another v. Mohammed Abdul Rahim**⁵, the Supreme Court considering the earlier decisions in **Ranchhodji Chaturji Thakore** (supra), **Jaipal**

3 (2004) 1 SCC 121

4 AIR 1994 SC 552

5 (2013) 11 SCC 67

Singh's case (supra) and **Baldev Singh v. Union of India**⁶, held that subsequent acquittal of Government servant though obliterates his conviction, does not operate retrospectively to wipe out the legal consequences of the conviction under the Act, and observed as under: -

“11. ... During the aforesaid period there was, therefore, a prohibition in law on the appellant Bank from employing him. If the respondent could not have remained employed with the appellant Bank during the said period on account of the provisions of the Act, it is difficult to visualise as to how he would be entitled to payment of salary during that period. His subsequent acquittal though obliterates his conviction, does not operate retrospectively to wipe out the legal consequences of the conviction under the Act. The entitlement of the respondent to back wages has to be judged on the aforesaid basis. His reinstatement, undoubtedly, became due following his acquittal and the same has been granted by the appellant Bank.”

12. Coming back finally to the facts of the present case, it is quite vivid that the petitioner was convicted by the jurisdictional criminal court for offences under Sections 7 & 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 pursuant to which his services were terminated. However, in the criminal appeal this court acquitted the petitioner from the charges. But in the meanwhile, the petitioner retired from service on 31.08.2018, on attaining the age of superannuation. However, he has been denied back-wages, as the respondent CSPDCL was unable to take the services of the petitioner due to his facing criminal charges and as such, in light of the principles of law laid down by their Lordships of the Supreme Court in **Ranchhodji Chaturji**

6 (2005) 8 SCC 747

Thakore (supra), **Jaipal Singh's** case (supra), **Baldev Singh** (supra) and **Mohammed Abdul Rahim's** case (supra), subsequent acquittal of the petitioner though obliterates his conviction, does not operate retrospectively to wipe out the legal consequences of the conviction and thus, he would not be entitled for back-wages. Concludingly, it is held that Rule 54-B of the Fundamental Rules would not be applicable to the petitioner herein in the present case. Consequently, Rule 54-B of the Fundamental Rules would not be applicable and thus, he would not be entitled for back-wages.

13. In that view of the matter, I do not find any merit in this writ petition, it deserves to be and is accordingly dismissed leaving the parties to bear their own cost(s).

Sd/-
(BIBHU DATTA GURU)
JUDGE

Head Note

“ Employee involved himself in a crime but acquitted later is not entitled to back-wages, as he had disabled himself for rendering the service on account of conviction or incarceration in jail.”

" कर्मचारी, जो स्वयं अपराध में लिप्त रहा हो किन्तु बाद में दोषमुक्त किया गया हो वह बकाया वेतन प्राप्त करने का हकदार नहीं है, क्योंकि उसने दोषसिद्धि या जेल में कैद के आधार पर स्वयं को सेवा प्रदान करने से निर्योग्य कर लिया था। "