



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 20577 OF 2026 (S-RES)

BETWEEN:

SRI RAKHESH B,
S/O. LATE B. KAMALAKSHA B.,
AGED ABOUT 52 YEARS,
WORKING AS SUPERINTENDING ENGINEER,
OFFICE OF THE SUPERINTENDING ENGINEER,
MANGALORE ELECTRICITY SUPPLY COMPANY
LIMITED, NEAR MAHATMA GANDHI MEMORIAL
COLLEGE GROUND, KUNJIBETTU, UDUPI - 576 102.

...PETITIONER

(BY M.S BHAGWATH, SENIOR ADVOCATE A/W
SRI SATISH K, ADVOCATE)

AND:

1. THE KARNATAKA POWER TRANSMISSION
CORPORATION LIMITED,
REP. BY ITS MANAGING DIRECTOR,
CAUVERY BHAVAN, K. G. ROAD,
BANGALORE - 560 009.
2. THE DIRECTOR,
(ADMINISTRATION AND HUMAN RESOURCES),
KARNATAKA POWER TRANSMISSION
CORPORATION LTD.,
CAUVERY BHAVAN, K. G. ROAD,
BANGALORE 560 009.



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

3. THE CHIEF GENERAL MANAGER (TECHNICAL),
KARNATAKA POWER TRANSMISSION CORPORATION
LTD., CAUVERY BHAVAN, K. G. ROAD,
BANGALORE 560 009.

...RESPONDENTS

(BY SRI A CHANDRACHUD, ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO A) CALL FOR RECORDS FROM THE RESPONDENTS B) ISSUE A WRIT OR ORDER QUASHING THE IMPUGNED ENDORSEMENT DATED 05/12/2025 BEARING NO. KAVIPRANINI/B52/45945/2023-24 ISSUED BY THE RESPONDENT NO. 3 (ANNEXURE N) AND CONSEQUENTLY DIRECT THE RESPONDENTS TO TREAT THE PERIOD FROM 21/03/2024 TO 02/11/2025 AS PERIOD SPENT ON DUTY FOR ALL PURPOSES AND EXTEND ALL CONSEQUENTIAL SERVICE BENEFITS, INCLUDING BACK WAGES AND RESTORATION OF SENIORITY AND OTHER MONETARY BENEFITS, IN FAVOUR OF THE PETITIONER, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner is before the Court seeking the following prayer:

"a) Call for records from the Respondents;

b) Issue a Writ or Order quashing the impugned endorsement dated 05.12.2025 bearing No.KaViPraNiNi/B52/45945/2023-24 issued by the respondent No.3 (Annexure-N) and Consequently Direct the Respondents to treat the period from 21.03.2024 to



CNR: KAHC010457742026

02.11.2025 as period spent on duty for all purposes and extend all consequential service benefits, including back wages and restoration of seniority and other monetary benefits, in favour of the petitioner, in the interest of justice and equity.

c) PASS any other appropriate order as this Hon'ble Court deems fit in the facts and circumstances of the case, including the cost of this Writ Petition."

2. Heard Sri M.S.Bhagwath, learned senior counsel along with Sri Satish K., learned counsel for the petitioner and Sri A. Chandrachud, learned counsel for the respondents.

3. Facts, adumbrated, are as follows:

3.1. The petitioner was appointed as an Assistant Engineer on 03.11.1998 and, at the relevant point in time, was working as an Assistant Executive Engineer. Since the issue does not relate to the service or otherwise of the petitioner, it would suffice if the narration would commence on the date on which the petitioner gets embroiled in a crime, *i.e.*, on 06.06.2015, registered against him in Crime No.33/2015 for offences punishable under Sections 376 and 417 of the IPC. The police conduct investigation and file their final report/charge sheet against the petitioner in Sessions Case



CNR: KAHC010457742026

No.6/2016. The concerned Court, in terms of its judgment of acquittal dated 06.05.2017, held that the prosecution had failed to prove the guilt beyond all reasonable doubt. The petitioner then claims for getting promotion to the post of Executive Engineer (Electrical). When the representation seeking promotion was not considered, the petitioner approaches this Court by preferring a petition in W.P.No.3472/2016 and a coordinate Bench of this Court, in terms of the order dated 14.07.2017, directed that the representation of the petitioner be considered. Thereafter, the petitioner was promoted to the post of Executive Engineer (Electrical) on 13.12.2017. The promotion of the petitioner was given prospective effect, *i.e.*, from 13.12.2017.

3.2. Later, it transpires that the complainant and the State both challenge the said judgment of acquittal before this Court in separate criminal appeals in Criminal Appeal Nos.1266/2017 and 1878/2017, respectively. A Division Bench of this Court, in terms of its judgment dated 05.01.2024, sets aside the judgment of acquittal and convicts the petitioner. The conviction leads to dismissal of the petitioner from service, in



CNR: KAHC010457742026

terms of the order of dismissal dated 21.03.2024. In the interregnum, the judgment of conviction passed by the Division Bench of this Court was challenged by the petitioner before the Apex Court in SLP (Criminal) Diary No.7832/2024. The Apex Court, in terms of its order dated 07.03.2024, suspended the sentence and granted leave to file criminal appeals. The Apex Court, in Criminal Appeal Nos.3790-3791/2024, in terms of its judgment dated 03.09.2025, sets aside the judgment of conviction dated 05.01.2024 passed by the Division Bench and restores the judgment of acquittal dated 06.05.2017 passed by the Sessions Court in S.C.No.6/2016, and the petitioner was acquitted of all the charges levelled against him. It transpires that the petitioner submitted a representation seeking withdrawal of the dismissal order and reinstatement into service with all consequential benefits. The first respondent, in terms of the order dated 29.10.2025, withdrew the order of dismissal and reinstated the petitioner into service.

3.3. The fulcrum of the *lis* lies in the order of reinstatement and its aftermath. All the benefits are granted except the salary for the period of dismissal, *i.e.*, from



CNR: KAHC010457742026

21.03.2024 to 02.11.2025, as it was treated as the period not spent on duty for the purpose of computation of salary. The petitioner submits a representation dated 05.11.2025 before the first respondent, seeking to consider the period of dismissal as on duty for all consequential service benefits. The representation of the petitioner comes to be rejected by the third respondent in terms of an endorsement dated 05.12.2025. It is this endorsement that is called in question before this Court in the subject petition, as the period of 1 year and 8 months, during which the petitioner remained dismissed from service, is sought to be considered as a period spent on duty, in terms of the acquittal of the petitioner by the Apex Court.

4. Sri M.S.Bhagwath, learned senior counsel for the petitioner would reiterate the contents of the petition and relies upon the judgment of a division bench of this Court rendered in W.P.No.17910/2024, disposed on 25.09.2024.

5. Sri A. Chandrachud, learned counsel for the respondents, would refute the submission, contending that all



CNR: KAHC010457742026

other benefits would have straightaway become inherent to the petitioner, except the salary, on the ground that the case of the petitioner would come under the principle of 'no work, no pay'.

6. Learned senior counsel for the petitioner would reiterate that the Division Bench has considered an identical circumstance and has held that the principle of 'No work, No pay' is not applicable to the case of the petitioner.

7. I have given my anxious consideration made by the learned counsel for the respective parties and have perused the material on record.

8. The facts in the case at hand would not require any iteration, as the facts are narrated in detail hereinabove. The issue is, whether the petitioner is entitled to salary, notwithstanding the principle of 'no work, no pay'.

9. It is an admitted fact that, during the period for which the petitioner is seeking salary, *i.e.*, from 21.03.2024 to 02.11.2025, he did not work, not on account of any circumstance or flaw on the part of the employer in not



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

permitting the petitioner to work, but the petitioner had himself incurred that disability, as he was convicted of an offence on the allegation of rape, which conviction is subsequently upturned by the Apex Court in terms of the judgment of acquittal. Therefore, in a circumstance where the employee himself enters into disability to perform his duties, the employer cannot be mulcted with the payment of salary for that period.

10. The issue is no longer *res integra*. The applicability of the principle of 'no work, no pay' to an employee who is dismissed on conviction and later, acquitted, has been considered by the Apex Court in a catena of judgments. I deem it appropriate to notice few of them.

10.1 The Apex Court in the case of **UNION OF INDIA v. JAIPAL SINGH**¹, has held as follows:

"....

3. Heard Mr Raju Ramachandran, learned Additional Solicitor General appearing for the appellants, who

¹ (2004) 1 SCC 121



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

placed strong reliance upon the decision of this Court in *Ranchhodji Chaturji Thakore v. Supdt. Engineer, Gujarat Electricity Board* [(1996) 11 SCC 603 : 1997 SCC (L&S) 491] wherein this Court, in a case identical to the facts of the present case, has chosen to order only reinstatement but denied back wages on the ground that the Department was in no way concerned with the criminal case and, therefore, cannot be saddled with the liability also for back wages for the period when he was out of service during/after conviction suffered by the respondent in the criminal case. Per contra, Mr Ranbir Singh Yadav, learned counsel for the respondent sought to place reliance upon an order of this Court dismissing the special leave petition filed summarily against the judgment of the very same High Court dated 19-7-2001 in CWP No. 10201 of 2000. The learned counsel for the respondent, by inviting our attention to the judgment of the High Court in that case contended that on the facts the case on hand was also similar to the case considered therein but this Court dismissed the special leave petition when the relief granted for reinstatement and back wages was contested by the authorities before this Court.

4. On a careful consideration of the matter and the materials on record, including the judgment and orders brought to our notice, we are of the view that it is well accepted that an order rejecting a special leave petition at the threshold without detailed reasons therefor does not constitute any declaration of law by this Court or constitute a binding precedent. Per contra, the decision relied upon by the appellant is one on merits and for reasons specifically recorded therefor it operates as a binding precedent as well. On going through the same, we are in respectful agreement with the view taken in *Ranchhodji* [(1996) 11 SCC 603 : 1997 SCC (L&S) 491] . If prosecution, which ultimately resulted in acquittal of the person concerned was at the behest of or by the department itself, perhaps different considerations may arise. **On the other hand, if as a citizen the employee or a public servant got involved in a criminal case and if after initial**



CNR: KAHC010457742026

conviction by the trial court, he gets acquittal on appeal subsequently, the department cannot in any manner be found fault with for having kept him out of service, since the law obliges a person convicted of an offence to be so kept out and not to be retained in service. Consequently, the reasons given in the decision relied upon, for the appellants are not only convincing but are in consonance with reasonableness as well. Though exception taken to that part of the order directing reinstatement cannot be sustained and the respondent has to be reinstated in service, for the reason that the earlier discharge was on account of those criminal proceedings and conviction only, the appellants are well within their rights to deny back wages to the respondent for the period he was not in service. The appellants cannot be made liable to pay for the period for which they could not avail of the services of the respondent. The High Court, in our view, committed a grave error, in allowing back wages also, without advertent to all such relevant aspects and considerations. Consequently, the order of the High Court insofar as it directed payment of back wages is liable to be and is hereby set aside."

10.2 Later, the Apex Court in the case of **SBI v. MOHD.**

ABDUL RAHIM², has held as follows:

" "

10. The issue relating to entitlement to back wages, however, stands on a somewhat different footing. While in *Ranchhodji Chaturji Thakore* [(1996) 11 SCC 603 : 1997 SCC (L&S) 491] , *Jaipal*

² (2013) 11 SCC 67



CNR: KAHC010457742026

Singh [(2004) 1 SCC 121 : 2004 SCC (L&S) 12] and *Baldev Singh* [(2005) 8 SCC 747 : 2006 SCC (L&S) 35] , the basis of refusal of back wages by this Court would appear to be the inability of the employer to avail of the service of the employee due to his incarceration in jail, in *Banshi Dhar* [(2007) 1 SCC 324 : (2007) 1 SCC (L&S) 205] the refusal of back wages by this Court was in a situation largely similar to the case before us, namely, where the employee was all along on bail and was thus available for work.

11. In *Banshi Dhar* [(2007) 1 SCC 324 : (2007) 1 SCC (L&S) 205] this Court answered the question against the employee by holding that grant of back wages is not automatic and such an entitlement has to be judged in the context of the totality of the facts of a given case. It is on such consideration that back wages were declined. In the present case, it will not even be necessary for the Court to perform the said exercise and delve into the surrounding facts and circumstances for the purpose of adjudication of the entitlement of the respondent to back wages in view of the provisions of Section 10(1)(b)(i) of the Act. The said provisions impose a clear bar on a banking company from employing or continuing to employ a person who has been convicted by a criminal court of an offence involving moral turpitude. No discussion as to the meaning of the expression "moral turpitude" is necessary having regard to the nature of the offences alleged against the respondent, namely, under Section 498-A IPC and Section 4 of the Dowry Prohibition Act, 1961. No doubt, the respondent was not in custody during the period for which he has been denied back wages inasmuch as the sentence imposed on him was suspended during the pendency of the appeal. But what cannot be lost sight of is that the conviction of the respondent continued to remain on record until it was reversed by the appellate court on 22-2-2002. During the aforesaid period there was, therefore, a



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

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. The respondent was acquitted on 22-2-2002, the demand for reinstatement was made by him on 22-4-2002 and he was reinstated in service by the appellant bank on 7-11-2002. On the view that we have taken, at the highest, what can be said in favour of the respondent is that he is entitled to wages from the date he had lodged the demand for the same following his acquittal, namely, from 22-4-2002, until the date of his reinstatement, if the same has not already been granted by the appellant Bank."

10.3. Later, the Apex Court in the case of **RAJ NARAIN**

v. UNION OF INDIA³, has held as follows:

"....

5. This Court in *Ranchhodji Chaturji Thakore* [*Ranchhodji Chaturji Thakore v. Gujarat Electricity Board*, (1996) 11 SCC 603 : 1997 SCC (L&S) 491] considered the case of an employee who sought back wages for the period he was kept out of duty

³ 2019 SCC OnLine SC 452



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

during the pendency of a criminal case for his involvement in an offence under Section 302 IPC. The claim of the petitioner therein was that he was entitled to full wages on his acquittal by the criminal court. This Court rejected the said submission by holding that the question of payment of back wages would arise only in case of termination of service, pursuant to findings recorded in a departmental enquiry. In the event of the dismissal order being set aside by the Court, the delinquent employee would be entitled to claim back wages as he was unlawfully kept away from duty by the employer. This Court was of the opinion that an employee against whom criminal proceedings are initiated would stand on a different footing in comparison to an employee facing a departmental enquiry. The employee involved in a crime has disabled himself from rendering his services on account of his incarceration in jail. Subsequent acquittal by an appellate court would not entitle him to claim back wages.

6. The decision of *Ranchhodji Chaturji Thakore* [*Ranchhodji Chaturji Thakore v. Gujarat Electricity Board*, (1996) 11 SCC 603 : 1997 SCC (L&S) 491] was followed by this Court in *Union of India v. Jaipal Singh* [*Union of India v. Jaipal Singh*, (2004) 1 SCC 121 : 2004 SCC (L&S) 12] to refuse back wages to an employee who was initially convicted for an offence under Section 302 read with Section 34 IPC and later acquitted by the High Court in a criminal appeal. While refusing to grant relief to the petitioner therein, this Court held that subsequent acquittal would not entitle an employee to seek back wages. However, this Court was of the opinion that if the prosecution is launched at the behest of the department and the employee is acquitted, different considerations may arise. The learned counsel for the appellant endeavoured to distinguish the prosecution launched by the police for involvement of an employee in a criminal case and the criminal proceedings



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

initiated at the behest of the employer. The observation made in the judgment in *Union of India v. Jaipal Singh* [*Union of India v. Jaipal Singh*, (2004) 1 SCC 121 : 2004 SCC (L&S) 12] has to be understood in a manner in which the department would become liable for back wages in the event of a finding that the initiation of the criminal proceedings was mala fide or with vexatious intent. In all other cases, we do not see any difference between initiation of the criminal proceedings by the department vis-à-vis a criminal case lodged by the police. For example, if an employee is involved in embezzlement of funds or is found indulging in demand and acceptance of illegal gratification, the employer cannot be mulcted with full back wages on the acquittal of the person by a criminal court, unless it is found that the prosecution is malicious."

(Emphasis supplied at each instance)

The Apex Court, in the afore-quoted judgments, has consistently enunciated that where an employee, on account of his involvement in criminal proceedings and the conviction that follows, incurs an inability to render service and consequently, remains out of employment, the subsequent acquittal would not, by itself, entitle him to claim back wages for the intervening period. Where such non-employment is not attributable to the employer, the employer cannot be mulcted with the liability to pay salary for the period during which the services of the employee could not be availed.



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

11. The Apex Court, while considering the applicability of the principle of 'no work, no pay', has drawn a distinction between a case where an employee is kept out of service by the employer and a case where the employee himself remains out of service, without the same being attributable to the employer. Few of them are noticed.

11.1 The Apex Court in the case of **UNITED INDIA INSURANCE CO. LTD. v. SIRAJ UDDIN KHAN⁴**, has held as follows:

"

19. This Court held that there was no justification whatsoever to grant any back wages to the respondent on the general principle that nobody could be directed to claim wages for the period that he remained absent without leave or without justification.

20. We may further notice the judgment of this Court, which has also been relied on by the respondent in his counter-affidavit i.e. judgment of this Court in *Shobha Ram Raturi v. Haryana Vidyut Prasaran Nigam Ltd.* [*Shobha Ram Raturi v. Haryana Vidyut Prasaran Nigam Ltd.*, (2016) 16 SCC 663 : (2015) 3 SCC (L&S) 185] In the above case, the appellant was retired from service on 31-12-2002, even though he would have, in the ordinary course, attained his date of retirement on superannuation, only on 31-12-2005. The appellant

⁴ **2019 SCC OnLine SC 846**



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

assailed the order of retirement, which was allowed [*Shobha Ram Raturi v. Haryana Vidyut Prasaran Nigam Ltd.*, 2010 SCC OnLine P&H 13116] by the learned Single Judge. The learned Single Judge has denied the back wages to the appellant on the principle of "no work no pay". The order of the learned Single Judge was assailed by the appellant by filing a letters patent appeal, which too was dismissed [*Shobha Ram Raturi v. Haryana Vidyut Prasaran Nigam Ltd.*, 2011 SCC OnLine P&H 17610]. This Court allowed the appeal of the appellant and made following observations in paras 3 and 4: (*Shobha Ram Raturi case* [*Shobha Ram Raturi v. Haryana Vidyut Prasaran Nigam Ltd.*, (2016) 16 SCC 663 : (2015) 3 SCC (L&S) 185], SCC p. 664)

"3. Having given our thoughtful consideration to the controversy, we are satisfied, that after the impugned order of retirement dated 31-12-2002 was set aside, the appellant was entitled to all consequential benefits. The fault lies with the respondents in not having utilised the services of the appellant for the period from 1-1-2003 to 31-12-2005. Had the appellant been allowed to continue in service, he would have readily discharged his duties. Having restrained him from rendering his services with effect from 1-1-2003 to 31-12-2005, the respondent cannot be allowed to press the self-serving plea of denying him wages for the period in question, on the plea of the principle of "no work no pay".

4. For the reasons recorded hereinabove, we are satisfied, that the impugned order passed by the High Court, to the limited extent of denying wages to the appellant, for the period from 1-1-2003 to 31-12-2005 deserves to be set aside. The same is accordingly hereby set aside."

21. This Court held in the above case that having restrained the appellant from rendering his services with effect from 1-1-2003 to 31-12-2005, the respondent cannot be allowed to press the plea of the principle of "no work no pay" for denying the



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

wages. In the above case, the appellant was restrained from working due to order of retirement dated 31-12-2002, due to which he could not work till his normal retirement. When the order dated 31-12-2002 was set aside, automatically, he became entitled for back wages and the principle of "no work no pay" was not attracted.

22. In the present case, as noted above, the respondent was not kept away from work by any order of the appellant. The order of termination of his services/dismissal was passed on 26-6-2012, after his retirement on 20-6-2012, which in no manner prohibited the respondent from working. The respondent during submission has submitted that he was illegally transferred to Branch Office, Jaunpur from Allahabad. He was suffering from a disability of more than 40 per cent and he could not have been transferred to another place. There is nothing on record to indicate that transfer of respondent from Branch Office, Allahabad to Branch Office, Jaunpur was at any time set aside or withdrawn. The salary up to 14-5-2009 was allowed to the respondent on account of setting aside of the order dated 14-5-2009, which was with all consequential benefits but with regard to entitlement of salary after 14-5-2009 to 20-6-2012, there has been no adjudication by the High Court, which is apparent from judgment of the High Court dated 3-7-2018 [*Siraj Uddin Khan v. United India Insurance Co. Ltd.*, 2018 SCC OnLine All 3217] , as extracted above."

11.2 Later, the Apex Court in the case of **EX. SQN. LDR. R. SOOD v. UNION OF INDIA AND OTHERS⁵**, has held as follows:

⁵ 2026 SCC OnLine SC 590



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

"39. The order of dismissal from service dated 22nd September, 1993 stands set aside. Appellant having since crossed the age of superannuation, he cannot be reinstated in service. In law, however, he is entitled to claim all consequential service benefits which would have accrued to him, had he not been fastened with such illegal order of dismissal. Appellant could not work beyond 22nd September, 1993 admittedly because of the illegal order of termination and not owing to any fault on his part. **Question therefore arises, whether the principle of 'no work, no pay' would be attracted? In view of the recent decisions of this Court in *Ramesh Chand v. Management of Delhi Transport Corporation*²² and *Maharashtra State Road Transport Corporation v. Mahadeo Krishna Naik*²³, the requirement for being entitled to 100% back wages is a statement on affidavit that the employee concerned has not been reemployed since illegal termination of service. Though a negative burden, such burden has to be discharged whereupon the onus would shift to the employer to deny/dispute such statement. Here, there is no material on record to show that the appellant did not take up any employment/was not employed after 22nd September, 1993. We, therefore, propose reduction of the claim to the extent of 50%."**

11.3 The Apex Court in the case of **UNION OF INDIA AND OTHERS v. BALI RAM No.850808321⁶**, holds as follows:

"....

⁶ 2026 SCC OnLine SC 1319



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

73. Having thus noticed the facts and the law, the test is simple: did the facts and circumstances warrant the relief granted by the Single Judge?

74. The statutory mandate of Section 47, PwD Act is too peremptory to be ignored. The title of the PwD Act says it all. It is an enactment for persons with disabilities intended to guarantee them equal opportunities and full participation apart from protection of rights. Section 47, importantly, starts with "No". Negative words in a statute convey a clear prohibition. It is a legislative device to make a statute imperative. An employee like the respondent, while retaining the status of a public servant, is entitled to security of service. A physical disability that he acquires while in service rendering him unfit for the work assigned to him has to be dealt with by the employer in the manner ordained by Section 47. Either he is shifted to some other post carrying same pay and service benefits, or, if it is not possible, the employer is under a duty to adjust him on any other post. If that too is not possible, a supernumerary post has to be created for him which, for all intents and purposes, would be personal to him.

75. The PwD Act came into force in the year 1995, whereas the respondent was medically invalidated from service in 1998. The NOTIFICATION saw the light of the day as late as in 2002. The duty imposed by the PwD Act being mandatory and not discretionary, the law did not leave the appellants with an option to discharge their duty at their convenience. Appellants were required to find a chair for the respondent, and not wait for the respondent to beg for one. By not offering alternate posting, the appellants failed in their role as a model employer and converted a welfare provision into a dead letter.



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

76. The point as to whether or not the impaired vision from which the respondent suffered was attributable to and/or aggravated by service in the CRPF need not detain us for long. Nothing has been brought on record by the appellants to suggest that the respondent had been suffering from an ophthalmic condition since his enrolment in the CRPF. Medical fitness of the respondent must have been assessed at the time of his enrolment and appointment as a driver. Had he been found short of the required standards, we wonder whether the recruitment process would have resulted in an appointment in the first place. Even if it is assumed that the ophthalmic condition was neither attributable to nor aggravated by service in the CRPF, nothing turns on it. Parliament did not limit Section 47 to disabilities attributable to service; the protection is unqualified and unconditional. It operates irrespective of how the disability was acquired. The relevant question is not hypothetical fitness at appointment, but whether the appellants explored alternatives before ending the respondent's service. More than ten years of unblemished driving followed by an acquired ophthalmic condition, indeed, provided a case for accommodation or alternate posting, not medical invalidation. Service jurisprudence distinguishes between initial disqualification and subsequent disability, and the law ought to lean towards retention over ouster from service unless, of course, ouster becomes inevitable.

77. It would not be inapt to dwell on another aspect, before we conclude. It is intriguing that the CRPF, being a force constituted under the Central Reserve Police Force Act, 1949³⁵ and functioning under the administrative control of the Ministry of Home Affairs, Government of India, failed to respond in time. Being an instrumentality of the State, it was expected to be fully cognizant of the



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

provisions of the PwD Act and the statutory protection conferred upon the respondent under Section 47 thereof. In such circumstances, we find it difficult to comprehend how the order of medical invalidation came to be passed in the first place, particularly when at the relevant point in time no notification exempting the CRPF from the operation of the PwD Act had been issued. The action of the appellants, therefore, appears to have been taken in disregard of the statutory mandate then in force.

78. We are, thus, not persuaded to accept Mr. Banerjee's contention that the provisions of the PwD Act are inapplicable on facts and in the circumstances of the present case.

79. For all the reasons aforesaid, we are unhesitatingly of the opinion that the Single Judge was perfectly justified in finding the appellants to be remiss. Therefore, we are of the considered opinion that the civil appeal is devoid of merit and is liable to be dismissed.

THE RELIEF

80. By an interim order passed in the present proceedings on 20th May, 2026, we directed Mr. Banerjee to place on record the quantum of salary and allowances that the respondent would have drawn had he continued in service till his superannuation. Pursuant thereto, a calculation sheet has been furnished by the appellants. As per the said calculation, which we do not doubt for a moment, had the respondent remained in service until the date of his superannuation, the total salary and allowances payable to him would be an amount of Rs. 82,80,195/- excluding any adjustment on account of the invalidation pension received by him. The calculation further indicates that had the respondent continued in service only up to 10th September 2002, i.e., the date on which the NOTIFICATION came into force, the salary and allowances payable to him would amount to a meagre Rs. 2,66,180/-. We see no reason to accept



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

Mr. Banerjee's prayer that the respondent is entitled, if at all, to such sum till the NOTIFICATION was issued.

81. Pertinently, the respondent is now a sexagenarian. Consequently, the question of his reinstatement in service does not arise and the relief granted to the respondent by the Single Judge warrants suitable modification. We are conscious that an award of full back wages would impose a substantial burden on the State exchequer, but the fault for the mess rests solely on the appellants. We have noticed that the quantum of post medical invalidation benefits given to the respondent is a pittance. He has been made to suffer the pangs of deferred justice and economic destitution despite the favourable verdict of the Single Judge dating back to 11th August, 2008. Respondent having suffered visual impairment, the possibility of his gainful employment as a driver stood foreclosed. Given the nature of his disability, we presume that his other employment prospects were also rendered bleak. No evidence of the respondent's gainful employment has been placed on record. Appellants, having failed to provide an alternate post commensurate with the respondent's disability as mandated by Section 47, PwD Act, cannot be permitted to take shelter behind the principle of 'no work, no pay'. The situation of non-employment of the respondent is entirely the appellants' creation. Respondent is, thus, entitled to full back wages and the appellants must bear the consequences of their own inaction. The preambular promise of the Constitution cannot remain symbolic. Restitution of status with full back wages, interest and costs for the indignity of delay are the minimum we ought to order."

(Emphasis supplied at each instance)



CNR: KAHC010457742026

NC: 2026:KHC:53400
WP No. 20577 of 2026

The Apex Court, in the afore-quoted judgments, delineates the applicability of the principle of 'no work, no pay' with reference to the circumstance on account of which the employee remains out of service. Where the non-performance of duties is attributable to any act or omission on the part of the employer, the principle of 'no work, no pay' would not apply. Conversely, where the employee himself incurs ineligibility to discharge his duties and the circumstance resulting in his remaining out of service is not attributable to the employer's accord, the employer cannot be mulcted with the liability to pay salary for such period.

11. In the light of the law laid down by the Apex Court, I deem it appropriate to hold that the period of 18 months, from 21.03.2024 to 02.11.2025, during which the petitioner was out of service, was not on account of any order passed by the respondents of their own accord, but on account of the ineligibility incurred by the petitioner himself. Therefore, the principle of 'no work, no pay' would be applicable to the case of the petitioner.



CNR: KAHC010457742026

**NC: 2026:KHC:53400
WP No. 20577 of 2026**

12. For the aforesaid reasons, finding no warrant to interfere with the endorsement issued by the third respondent, it is observed that the petitioner would not be entitled to salary for the period from 21.03.2024 to 02.11.2025.

13. Accordingly, the writ petition stands rejected.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

NVJ
List No.: 2 Sl No.: 2