

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

WP(C).No. 759 of 2012 (T)

PETITIONER(S) :

C.K.JOSEPH,
ASSISTANT ENGINEER (RETIRED)
KERALA STATE ELECTRICITY BOARD
RESIDING AT C.C.18/1622, CHERUTHURUTHY HOUSE
E.S.I. ROAD, PALLURUTHY, KOCHI-6.

BY ADVS.SRI.N.SUGATHAN
SMT.M.C.BINDUMOL
SMT.VARSHA BHASKAR

RESPONDENT(S) :

1. KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVAN
PATTOM PO, THIRUVANANTHAPURAM-695 004.

2. THE CHAIRMAN
KERALA STATE ELECTRICITY BOARD, VYDYUTHI BHAVAN
PATTOM PO, THIRUVANANTHAPURAM-695 004.

3. THE CHIEF ENGINEER (HRM)
VYDYUTHI BHAVAN, PATTOM P.O.
THIRUVANANTHAPURAM-695 004.

4. THE DEPUTY CHIEF ENGINEER
ELECTRICAL CIRCLE, KERALA STATE ELECTRICITY BOARD
ERNAKULAM, KOCHI-682 018.

5. THE EXECUTIVE ENGINEER
ELECTRICAL DIVISION, K.S.E.BOARD, MATTANCHERRY
KOCHI-682 002.

R1-R5 BY ADV. SRI.K.S.ANIL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF ORDER NO.GBI/44/98-99/4247 DATED 11.09.1998
PASSED BY THE 5TH RESPONDENT.

EXT.P2: TRUE COPY OF ORDER NO.EBVS.2/35/98 DT.2.11.2001 PASSED BY THE
3RD RESPONDENT.

EXT.P3: TRUE COPY OF JUDGMENT DT.29.10.04 IN CRL.APPEAL NO.1062/01.

EXT.P4: TRUE COPY OF ORDER NO.EBVS.2/35/98/177 DT.16.2.05 PASSED BY
R3.

EXT.P5: TRUE COPY OF ORDER NO.GBI/44/98-99/604 DT.6.6.05 PASSED BY
THE 5TH RESPONDENT.

EXT.P6: TRUE COPY OF APPEAL DATED 16.6.05 SUBMITTED BY THE PETITIONER
BEFORE THE 4TH RESPONDENT.

EXT.P7: TRUE COPY OF ORDER NO.GBI/Elc./75/98/2396 DT.5.9.05 PASSED
BYT THE 4TH RESPONDENT.

EXT.P8: TRUE COPY OF ORDER NO.EBVS.2/35/98/373 DT.19.04.06 PASSED BY
THE 3RD RESPONDENT.

EXT.P9: TRUE COPY OF PETITION DT.22.05.06 SUBMITTED BY THE PETITIONER
BEFORE THE BOARD.

EXT.P10: TRUE COPY OF ORDER NO.VIG/A1/949/0 DT.27.12.06 PASSED BY THE
CHAIRMAN OF THE BOARD.

EXT.P11: TRUE COPY OF JUDGMENT DT.20.06.11 IN WPC.NO.17965/07.

EXT.P12: TRUE COPY OF REPRESENTATION DT.2.7.2011 SUBMITTED BY THE
PETITIONER TO THE 3RD RESPONDENT.

EXT.P13: TRUE COPY OF ORDER NO.EBVS.2/35/17965/2007/963 DT.13.10.2011
PASSED BY THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS

NIL.

/true copy/

P.S TO JUDGE

P.V.ASHA, J.

W.P(c) No.759 of 2012-T

Dated this the 20th day of May, 2015

JUDGMENT

The question to be determined in this case is whether the petitioner is entitled to get the period during which he was kept out of service on account of suspension and thereafter on account of dismissal consequent to conviction, are to be regularised with full pay and allowances, on his re-instatement, on acquittal in appeal.

2. The petitioner is a retired Assistant Engineer of the Kerala State Electricity Board. While he was working as a Sub Engineer, he was arrested by Police and detained in custody. VC No. 13/1998 was registered against him under the Prevention of Corruption Act. Consequent to this, he was placed under suspension as per Ext.P1 order passed on 11.09.1998 w.e.f 09.09.1998 under Rule 16(4) of the Manual for Disciplinary Proceedings. He was re-instated as per order dated 4.2.2000 and he joined duty on 5.2.2000. He underwent trial for offences under Sections 7 and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 and Section 418 of the Indian Penal Code,

before the Enquiry Commissioner and Special Judge, Thrissur. By judgment dated 29.10.2001 in C.C.No.35 of 2000, he was convicted. Consequent to this, he was dismissed from service as per Ext.P2 order issued on 2.11.2001 of the Chief Engineer. Following was the reason stated for dismissal:

“XXXXXXXX XXXXX XXXXXX XXXXXXX XXXXXXX
AND WHEREAS, it is considered that the conduct of the said Sri.C.K.Joseph, Sub Engineer, which lead to his conviction is such as to render his further retention in the Board's service undesirable.”

3. The petitioner filed Crl.Appeal No.1062 of 2001 and this Court by judgment dated 29.10.2004 as per Ext.P3 judgment, set aside the conviction. It was seen that there was no material on record to establish a case against the petitioner ie., whether he demanded gratification or attempted or agreed to accept gratification at any time from anybody. Consequent to the judgment in the Criminal Appeal, he was reinstated as per Ext.P4 order dated 16.02.2005, and he rejoined duty on 25.02.2005. He got promotion as Assistant Engineer on 09.12.2005 and thereafter retired from service on 31.12.2005.

4. In the meanwhile, a memo of charges was issued to him on 3.11.1998, with the following allegations:

(1) Sri C.K. Joseph, the accused has disconnected the

service connection of Cons. No. Kumbalangy Centre on 29.08.1998 on the ground that the service line drawn to the consumer has no clearance to a new adjacent building under construction. But the consumer was not served with a notice before disconnection.

(2) There is another service connection ie. Cons. No. 10632 in the same service line having the same problem. But no action was taken against that consumer. Thus Sri. C.K. Joseph, Sub Engineer, showed discrimination in taking action against Cons. No.3435.

(3) A notice under Section 79, 140A of Indian Electricity Rule 1956 could have been served on the owner of the building under construction (Sri. P.J. Sunny) and he should have been asked to stop the construction until sufficient clearance is provided. But no such notice was issued to the owner of the building under construction. Instead actions taken against Cons. No. 3435 who was not guilty in this matter.

(4) Sri. C.K. Joseph, neither reported the matter to the superior officers nor he obtained prior sanction for disconnection of Cons. No. 3435."

An inquiry was conducted into the allegations. Consequent to the

acquittal in appeal, he was re-instated subject to the disciplinary action pending against him. Thereafter, based on the enquiry report, a show cause notice dated 13.04.2005 was issued to him proposing a punishment of barring of one increment without cumulative effect as also the provisional decision to regularise his period under suspension as well as the period during which he was kept out of service on account of the dismissal, as eligible leave at his credit, or else as leave without allowance, which will not count for any other purpose. By Ext.P5 order issued on 6.6.2005, the Executive Engineer awarded the punishment of barring of his next increment without cumulative effect. Simultaneously it was ordered that the period of absence due to suspension and dismissal be regularised by granting eligible leave at his credit, if he desires or else as leave without allowance which will not count for any other purpose. As against the order Ext.P5, the petitioner approached the Deputy Chief Engineer in Ext.P6 appeal requesting to regularise the period of his absence on account of suspension as well as dismissal by granting full pay and allowances. By Ext.P7 order the Deputy Chief Engineer rejected the appeal without considering his grievances with respect to the regularisation of the period of

absence.

5. As against Ext.P7 order passed by the Deputy Chief Engineer, he approached the Chief Engineer and by Ext.P8 order the Chief Engineer also rejected the same again without considering his grievances regarding regularisation, confirming the punishment. The petitioner approached the Electricity Board by Ext.P9, which was rejected by the Chairman by Ext.P10 order, which also did not consider his grievances regarding the period of absence on account of suspension and dismissal.

6. In the above circumstances, the petitioner approached this Court in Writ Petition No.17965 of 2007, challenging the order Ext.P5 to the extent it related to the regularisation of the period of absence on account of suspension and dismissal. The case of the petitioner was that he was eligible for full pay and allowances for the period during which he was kept under suspension, since suspension was ordered only because he was detained in custody for a period exceeding 48 hours. Similarly he claimed full pay and allowances for the period he was kept out of service on account of the dismissal consequent to the conviction, since he was acquitted of blame.

7. After hearing the learned counsel on both sides, this

Court by Ext.P11 judgment dated 20.06.2011 set aside Ext.P5 order and directed the Chief Engineer - 3rd respondent, to reconsider the entire issue in terms of Rules 56 and 57 of Part I K.S.R and in accordance with the observations in the judgment, and to pass orders after affording an opportunity of hearing to the petitioner within a period of two months. This Court after referring to Rules 56 and 57 of Part I K.S.R, observed as follows:

“As rightly pointed out by the learned counsel for the petitioner under Rules 56 and 57, the authority competent to order reinstatement has to apply his mind regarding the circumstances under which the petitioner had to be reinstated and pass orders specifically as to how the period of absence shall be treated and also regarding pay and allowances to be paid to the officer for the period of his absence from duty. The case law on the subject lays down that for deciding that question, the authority has to consider whether while passing judgment in his favour in appeal by the appellate authority, the petitioner was acquitted of blame. Such consideration is totally absent in Ext.P5. Xxx
xxxx xxxxxx xxxxx xxxxx”

8. Pursuant to the judgment Ext.P11, the petitioner submitted Ext.P12 representation before the Chief Engineer

requesting to regularise the period from 9.9.1998 to 4.2.2000 and from 2.11.2001 to 24.02.2005 as duty with the benefit of full pay and allowances. The petitioner relied on Rule 56(2) of Part I K.S.R in order to get his absence on account of conviction, regularised as duty. He also relied on Rule 18 of Kerala Civil Services (CC&A) Rules, 1960 which contain analogous provisions as in K.S.E.B Employees (CC&A) Regulations, with respect to his absence due to dismissal consequent to conviction.

9. The Chief Engineer rejected his representation by Ext.P13 order. In the order he mentioned the contents of the provisions contained in subrule (1) of Rules 56A, subrule (4) of Rule 56B and of Rule 57 of Part I KSR. The operative portion of the order reads as follows:

“As far as the case of the Petitioner is concerned, subsequent to the suspension of the employee, the Board conducted a departmental enquiry and he was found guilty in the departmental enquiry. So a punishment of barring one increment without cumulative effect was imposed and the period spend under suspension and absence by way of termination were ordered to be regularized as Leave at his credit or Leave Without Allowance, which will not count for any purpose.

It is well settled law that the scope of criminal proceedings and disciplinary proceedings in a department are quite distinct and exclusive and independent. Here the petitioner was not wholly

exonerated from the charges in the departmental proceedings . In Ponnamma Vs State of Kerala reported in 1997(1) KLT 720, the Hon'ble Supreme Court upheld the denial of full back wages to the employee who was reinstated as acquitted in criminal case by applying the principle of "No work no pay" in view of the authoritative pronouncement of of Honourable Supreme Court in Ponnamma's case. The petitioner is not entitled to get an order to treat his suspension period and period in between dismissal and re-instatement as duty to award pay and allowances to him."

10. Sri. Prasant, the learned counsel for the petitioner submits that Ext.P13 order is passed without re-considering the issue with reference to Rules 56 and 57 of Part I KSR, which are the relevant provisions, despite the direction of this Court in Ext.P11 judgment; Rules 56A or B are totally inapplicable to the case.

11. I heard Sri. K.S. Anil, the learned Standing Counsel for the Kerala State Electricity Board (K.S.E.B), who vehemently opposed the contentions of the petitioner. K.S.E.B has filed a counter affidavit opposing the claims of the petitioner and reiterating the contents of Ext P13 order. It is stated that under Rules 56B(4), the authority who reinstated the suspended employee can order to treat the period of suspension as period spent on duty only if he is of the opinion that suspension was

wholly unjustified. It is further stated that under Rule 57 of Part I K.S.R, an employee suspended from service on involving in a criminal charge is entitled to get full pay only if he is acquitted of blame in accordance with the circumstance of such case. Again the reason stated therein for not granting the benefit of full pay and allowance is that in departmental enquiry conducted subsequent to the suspension, the petitioner was found guilty and a punishment was ordered and the period of absence was regularised. Further relying on the judgment of the Supreme Court in **Ponnamma v. State of Kerala** [1997 (1) KLT 720] it is stated that the petitioner is not entitled to full back wages on the principle of 'no work no pay'.

12. In order to decide the issue raised, it is necessary to have a look at the order of suspension, dismissal, as well as the judgment of this Court in appeal and the order finalising departmental action/regularising the period of absence - Exts.P1 to P3 and P5. Petitioner's suspension as per Ext.P1 order was under Rule 16(4) of the Manual for Disciplinary Proceedings. The order of dismissal was passed consequent to the conviction, as provided in Regulation 19 Of the KSEB Employees (CC&A) Regulations. The Criminal appeal was allowed since there was no

material to establish the case of the prosecution. The punishment of barring of increment was imposed in the departmental action. By the same order-Ext P5, the period of absence is also regularized. But regularisation of the period of absence for both spells does not form part of the departmental action, just because the respondents passed a composite order. The regularisation of period of absence is not a punishment in the departmental action.

13. The relevant portion of the judgment in the Criminal Appeal reads as follows:

“9. xxxxxx When the entire evidence is thus appreciated, I hold that the prosecution did not establish a case against the appellant/accused, that he had demanded a gratification or attempted or agreed to accept gratification from PWs.2 and 3, as deposed by them, on 9.9.98 at about 5.00 PM or before that. Therefore, I do not find any material to sustain the conviction and sentence passed by the court below.”

A reading of the above will show that the petitioner was acquitted seeing that there was no material to establish the case against him. The conviction is not set aside granting any benefit of doubt, as alleged by the respondents. When it is found that

there is no material to establish the case, it goes without saying that there was no evidence as against the petitioner. In such circumstances, the petitioner can only be treated as having been acquitted of blame. Therefore, in view of the provision contained in Rule 56(2), the petitioner is entitled to full pay and allowances for the period during which he was kept out of service on account of conviction.

14. Petitioner was placed under suspension under Rule 16 (4) of the Manual for disciplinary proceedings. Rule 16(4) of the Manual for Disciplinary Proceedings reads as follows:

“A Government servant who is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours shall be deemed to have been suspended with effect from the date of detention, by an order of the Appointing Authority and shall remain under suspension until further orders.”

When the only reason for suspension was detention in custody exceeding 48 hours, the relevant provision for regularisation of the period of suspension is Rule 57 in Chapter VII of Part I KSR, which reads as follows:

“57. An officer who is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours, or is undergoing imprisonment, shall be deemed

to be under suspension with effect from the date of commencement of the detention or imprisonment, as the case may be, and shall not be allowed to draw any pay and allowances during such period of suspension other than any subsistence allowance and other allowances that may be granted in accordance with Rule 55, until he is reinstated in service. **An adjustment of his pay and allowances for such periods should thereafter be made according to the circumstances of the case, the full amount being given only in the event of the officer being acquitted of blame** or (if the proceedings taken against him were for his arrest for debt) of its being provided that the officer's liability arose from circumstances beyond his control."

(emphasis supplied)

As per the above Rule, full pay and allowances shall be given in a case where the officer is acquitted of the blame. In the present case the appellate court found that there was no material to establish the case against the petitioner and set aside the conviction. Hence the petitioner was acquitted of the blame and therefore he is entitled to the benefit of full pay and allowances as provided under Rule 57, for the period of his absence due to suspension.

15. The petitioner relied on Rule 56(2) of Part I KSR, which reads as follows:

"2) Where the authority competent to order

reinstatement is of opinion that the officer who had been dismissed, removed or compulsorily retired, has been fully exonerated, the officer shall, subject to the provisions of sub-rule (6) be paid the full pay and allowances to which he would have been entitled had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be:

Provided that where such authority is of opinion that the termination of the proceedings instituted against the officer had been delayed for reasons directly attributable to the officer, it may, after giving him an opportunity to make his representation and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the officer shall subject to the provisions of sub-rule (7), be paid for the period of such delay, only such amount (not being the whole) of such pay and allowances as it may determine."

The second spell of absence of the petitioner was on account of the dismissal from service consequent to the conviction. It is in no way related to the Departmental action initiated against him. It is true that the criminal proceedings as well as the Departmental action are independent proceedings. But just

because the petitioner was awarded the punishment of barring of increment in the departmental proceedings, he cannot be denied full pay and allowances for the period of his absence due to termination from service consequent to conviction, once he was re-instated on setting aside the conviction. The order of dismissal was issued in terms of Regulation 19 of the KSEB Employees (CC&A) Regulations, which is analogous to Rule 18 of KCS (CC&A) Rules, on the basis of the conviction alone. Going by the principles underlying the Poviso (b) under Rule 18(iii) of KCS & CCA& Rules, petitioner will be entitled to all benefits as if the order of dismissal was not passed. The absence of the petitioner from service was never on account of the departmental action. Therefore punishment if at all awarded against the petitioner in departmental action, will not in any manner affect the regularisation of the period of absence of the petitioner on account of the conviction which is set aside. 5th respondent issued a composite order finalising departmental action and regularising the period of absence, despite the fact that both the 2 spells were totally unconnected with the departmental action.

Regularisation of period of absence is not a punishment, and it cannot be one in finalisation of departmental action. In the light of the provisions contained in Rule 56(2) and the principles under the 2nd proviso to Rule 18(iii) (b), petitioner will be entitled to full pay and allowances when he was re-instated on acquittal. Neither Rule 56A nor Rule 56B are applicable in this case, as can be seen from a mere reading of those provisions.

16. The learned counsel for the petitioner relies on the judgment of this Court reported in **Gangadharan v. State of Kerala** [2009 (1) KLT 713] in support of his claim for full pay and allowances for the period of his absence. I am perfectly in agreement with the above judgment wherein this Court observed as follows:

“13. Then the question is whether because of his arrest and of the consequential suspension, it could be said that the suspension was not wholly unjustifiable. Here, I may have to refer to R.57, as according to me, the principles contained in R.57 alone will apply in this case. Going by Ext.P2, it was reported by the Vigilance Director that there was

nothing to connect A1 with the crime. Accordingly, no charge sheet was laid against him. Thus, it cannot be said that this will not come within the meaning of the term "acquitted of blame". As held by this court in Santhosh Kumar's case (2007 (1) KLT SN 5 (C.No.8) = ILR 2007 (3) Ker. 101), when there is total absence of evidence against the accused and the prosecution has failed to establish that he was guilty of the offence alleged against him, it will come within the ambit of the expression "acquitted of blame" within the meaning of R.57 Part I K.S.R. There is no element of blame attached to the officer to prosecute him.

14. In fact, in Mohandas's case (2008 (3) KLT 62), the entire case law relating to R.56B and R.57 have been examined. After elaborately considering the various decisions, it was held in para.21 in the following terms:

"Except in cases where the acquittal by the criminal court is an 'honourable acquittal or cases where the Government servant is acquitted of blame' in all other cases, the competent authority is entitled to exercise its discretion and decide the manner in which the period during which the Government servant was kept out of duty should be treated and the quantum of the pay and allowances given to him subject, of course, to the condition that it shall not be lower than the subsistence allowance which he has

already drawn.”

This being the principle that is to be followed, the judgments of this court, viz. Vikaraman Pillai’s case (2003(2) KLT 397), Messlah Das’s case (1978 KLT 160 = ILR 1977 (2) Ker.561) and that of the Apex Couyrt in K.Ponnamma v. State of Kerala & Ors. (1997 (1) KLT 720 (SC) = (1997) 9 SCC 36) will not apply to the facts of this case. Going by the wording of R.57, full amount will be given in the case of the officer being acquitted of blame. Therefore, it is not a case where sub-r.3 of Rs.56B applies wherein the authority should consider whether the suspension was wholly unjustified while ordering reinstatement to see whether full pay and allowances have to be paid to him.”

In the present case, as I have already found, there is no evidence against the petitioner in order to substantiate the case against him.

17. The learned Standing Counsel relied on the Division Bench judgment of this Court **Union of India v. Gopinath** [2003 KHC 598]. But I find that it was a case where the delinquent officer was acquitted on benefit of reasonable doubt and the prosecution was not able to prove the case against him beyond reasonable doubt. The judgment-Ext.P3, reveals that there was no material on record to establish any case against the

petitioner.

18. The petitioner further relies on Rule 18 of the Kerala Civil Service (Classification, Control & Appeal) Rules, ['KCS (CC&A) Rules' for short] which is analogous to Rule 19 of K.S.E.B Regulation. In ground H of the Writ Petition he has raised a contention that the dismissal from service was ordered under the special procedure contained in Regulation 19 of K.S.E Board Employees (CC&A) Regulation on the ground of conviction in a criminal charge and that Regulation 19 is analogous to Rule 18 of KCS (CC&A) Rules. Rule 18 of the KCS (CC&A) Rules is amended as per G.O.(P) No.28/2003/P&ARD dated 18.09.2003 inserting a further proviso which provides for reinstatement of Government servant acquitted of charges entitling the benefits to which they would have been entitled had he been in service. The insertion of the second proviso to Rule 18 as per Order dated 18.09.2003 has been made consequent to the direction of the Hon'ble Supreme Court and this Court, in several judgments, as can be seen from the objects and reasons leading to the amendment. The second proviso to Rule 18 (b) reads as follows:

“18. Special Procedure in certain cases:--
Notwithstanding anything contained in rules 15, 16 and
17,

(i)xxxx

(ii) xxxx

(iii) xxxx

Provided that xxxxx

xxx

Provided further that where a government sservant is convicted on a criminal charge by a criminal court and sentenced to imprisonment and/or with finne:-

(a) he shall be dismissed or removed from service
xxxxxx

xxxxxx xxxxxxx xxxxxx xxxxxxx xxxxx

(b) In case the said conviction is subsequently set aside in appeal or otherwise and the Governmane servant is acquitted of the charges, the order of dismissal or removal ceases to have effect and revised orders shall be issued forthwith to reinstate him in service entitling him all the benefits to which he would have been entitled had he been in service:

Provided also that in case where conviction is on a summary trial for petty offences and the sentence is for a fine upto Rupees Two Thousand only such conviction shall not be treated as a conviction for the purpose of this rule and for the entry into service or retention in service as the case may be."

As the amendment to the KCS (CC&A) Rules has been effected consequent to the judgment of the Hon'ble Supreme Court and

this Court, the same will be equally applicable to the proceedings against the employees of the K.S.E.B also. Moreover, it is pertinent to note that the Full Bench of this Court in State of Kerala Vs Joseph:[2015 (1)KLT 56] has considered the issue regarding the regularization of period of absence in identical cases interpreting the provisions contained in Rule 18 of KCS (CC&A) Rules and held that the officer, on re-instatement on acquittal in a criminal case, will be entitled to full pay and allowances for the period of his absence due to termination from service on account of conviction in criminal case, as provided in the provisions contained in Rule 18(iii)(b). It is further held that the regularization of the period of suspension will be governed by the provisions contained in Chapter VII of Part 1 KSR.

19. This Court had already directed the Chief Engineer to reconsider the entire issue with respect to Rules 56 and 57 Part 1 KSR. As against the specific directions to consider the case of the petitioner in the light of Rules 56 and 57, the Chief Engineer failed to consider the same in accordance with the direction. At the same time, he found out other provisions like Rules 56A(1) and 56B(4) totally inapplicable to the circumstances of the case in hand, i.e where the petitioner was placed under suspension

only on account of detention in custody and further period of absence only on account of conviction by criminal court, which was set aside by this Court for no evidence.

In the circumstances of this case, I find that the denial of full pay and allowances for the period of absence of the petitioner on account of suspension as well as conviction are illegal. Accordingly, Ext.P13 is set aside and it is declared that the petitioner will be entitled to full pay and allowances for the period of his absence from 9.9.98 to 4.2.2000, on account of suspension and from 2.11.2001 to 24.2.2005, on account of conviction. All the monetary benefits due to the petitioner shall be paid within a period of three months from the date of receipt of a copy of this judgment. Consequent to this, the pensionary benefits of the petitioner shall also be reviewed and refixed within this period.

This Writ Petition is allowed accordingly.

rtr/

Sd/-
(P.V.ASHA, JUDGE)