

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

WRIT PETITION No.8570 OF 2005

-

26th OCTOBER, 2015

Between:

M. Durga Prasad .. Petitioner

and

The Chairman & Managing Director,
Syndicate Bank, Corporate Office,
Gandhinagar, Bangalore and others.

.. Respondents

THE HON'BLE SRI JUSTICE SANJAY KUMAR

-

WRIT PETITION No.8570 OF 2005

ORDER

The petitioner, a Special Assistant in the service of the Syndicate Bank, suffered conviction on 19.01.1998 in C.C.No.8 of 1995 on the file of the learned Special Judge for CBI Cases, Visakhapatnam, and was consequently dismissed from service by proceedings dated 18.02.1998. He filed Criminal Appeal No.102 of 1998 before this Court against his conviction. By judgment dated 14.08.2003, his

appeal was allowed and he was acquitted of the criminal charge. He was thereupon reinstated in service in August, 2004, and retired from service in October, 2004. He filed the present writ petition assailing the action of the bank in not restoring consequential service benefits upon his acquittal in the criminal case, viz., backwages, promotional scale in officer's cadre and fixation of pay as per the revised pay scales.

Entitlement of the petitioner to service benefits, upon acquittal in an appeal against his conviction in a criminal case, is no longer *res integra*. In **UNION OF INDIA V/s. JAIPAL SINGH**, this very issue fell for consideration before the Supreme Court. It was held therein that law obliges a person convicted of an offence to be kept out and not be retained in service but such discharge on account of criminal conviction would not stand after acquittal in appeal and therefore, reinstatement of such an employee is a necessary consequence. However, such an employee was held disentitled to any pay for the period for which the employer necessarily had to keep him out of employment owing to the conviction. The Supreme Court therefore concluded that such an employee would be entitled to backwages only from the date of his acquittal and except for the purpose of denying such an employee actual payment of backwages, that period also would have to be counted as period of service without break.

This legal position was again confirmed by the Supreme Court in **SBI Vs. MOHD. ABDUL RAHIM**.

Per contra, learned counsel appearing for the bank placed reliance on **KRISHNAKANT RAGHUNATH BIBHAVNEKAR V/s. STATE OF MAHARASHTRA** in support of his contention that the petitioner would not be entitled to count the period that he remained out of service for the purpose of terminal benefits. However, perusal of the judgment reflects that it was not a case relating to conviction in a criminal case which was thereafter set aside in appeal. It was a case where an employee was placed under suspension pending criminal proceedings but was ultimately acquitted. The Supreme Court therefore held that treatment of this suspension period would have to be governed by the relevant rules. This judgment is wholly inapplicable to the case on hand.

The law laid down by the Supreme Court in **JAIPAL SINGH¹** was applied by a Division Bench of this Court in **GOVERNMENT OF ANDHRA PRADESH V/S.. D**

JAGADESWARA RAO.

The writ petition is therefore allowed to the extent of holding that the petitioner would be entitled to backwages only from the date of his acquittal in Criminal Appeal No.102 of 1998, i.e., 14.08.2003. He would also be entitled to have the entire period that he remained out of service counted as on service for the purpose of determining his terminal benefits. The respondent bank shall therefore take action in the matter accordingly and remit the amounts due to the petitioner expeditiously and in any event, not later than four weeks from the date of receipt of a copy of this order. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

26th OCTOBER, 2015

PGS