

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 632 OF 2015

Vilas S/o Laxmanrao Pappulwar

-vs-

The Maha.State Electricity Distribution Co.Ltd.,Chandrapur, thr.its Supdt.Engineer and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Anand Parchure, counsel for the petitioner.
Mr. S.V.Purohit, counsel for the respondents.

CORAM : SMT. VASANTI A. NAIK &
A.S.CHANDURKAR, JJ.

DATE : 21.01.2016.

Heard.

By this writ petition, the petitioner prays that the respondents be directed to treat the period of his suspension from service from 19/06/2007 till 11/02/2008 as duty period so as to enable him to receive arrears of salary during said period along with regular increments.

The petitioner was appointed as a Junior Engineer on 15/05/1999 in the respondents-Company. He was prosecuted during his course of service under provisions of Prevention of Corruption Act, 1988. He was put under suspension from 19/06/2007 and after holding an enquiry, his services were terminated on 11/02/2008. The departmental appeals preferred by the petitioner were also dismissed. However, in Writ Petition No.2748 of 2009 by judgment dated 31/10/2012 this Court directed reinstatement of the petitioner in service with continuity, but it was specifically observed that the petitioner would not be entitled to salary for the period during which he was out of employment. After making various representations seeking salary for the period of suspension with other ancillary benefits, the petitioner has approached this Court.

It is submitted by Shri Anand Parchure, learned counsel for the petitioner that the petitioner was directed to be reinstated in service with continuity. What was denied the entitlement to the salary for the period when he was out of employment. It was submitted that

as the relief of reinstatement with continuity in service was granted, the petitioner was entitled for arrears of salary during the period of suspension.

Shri S.V. Purohit, learned counsel for the respondents, opposed aforesaid submission. According to him, the petitioner had been reinstated in service with continuity. There was no direction to pay him any salary for the period of suspension from 19/06/2007 till 11/02/2008. In absence of any such relief being granted, the petitioner was not entitled for the same.

Having heard the respective counsel, it can be seen that in Writ Petition No.2748 of 2009 which was partly allowed on 31/10/2012 the only relief granted was of reinstatement with continuity in service was granted. In the said writ petition various prayers were made including a prayer for grant of all consequential benefits along with back wages. Though this specific prayer was made in the earlier writ petition, the relief granted was only with regard to reinstatement with continuity in service. No relief with regard to grant of all consequential benefits was granted. Though it was submitted on behalf of the petitioner that the relief of consequential benefits had not been specifically denied, it is well settled in view of the decision of the Hon'ble Supreme Court in case of State Bank of India v. Ram Chandra Dubey (2001) 1 SCC 73 that if relief is sought but the same is not specifically granted, the said relief is deemed to have been refused. Even otherwise, it is be noted that the relief which is sought in the present writ petition of treating the period of suspension as duty period could have been prayed for in the earlier writ petition. The earlier writ petition was filed on 11/06/2009 and said relief could have been prayed for at that point of time. Failure to seek said relief in the earlier writ petition, also dis-entitles the petitioner to seek the same in the subsequent writ petition.

In view of the aforesaid, there is no merit in the writ petition. The same is, therefore, dismissed with no order as to costs.

JUDGE

JUDGE