

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 1982 of 2011

Date :3.8.2016

Between :

A.D. Srinivas S/o Dasarath
R/o Flat No. 206, Mohan Apartments,
Vinayak Nagar, Nizamabad

Petitioner

And

The Senior Divisional Manager,
LIC of India,
Jeevansagar, Gandhinagar,Hyderabad and others

Respondents

The Court made the following:

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ORAL ORDER:

The issue is in narrow compass. Petitioner was removed from service on account of his conviction in criminal case and later reinducted to service on acquittal by Appellate Court. In this writ petition, though petitioner initially claimed wages for the period from dismissal to reinstatement, during the course of arguments, learned counsel for the petitioner has confined his claim for payment of backwages from the date of submission of representation till reinstatement after he was acquitted by the Appellate Court.

2. The facts which are relevant for consideration of the issue are as under:

3. On a complaint arising under Section 138 of the Negotiable Instruments Act, petitioner was convicted by judgment dated 10.7.2008 in C.C.No. 475 of 2003 by Judicial First Class Magistrate, Nizamabad. Based on the said conviction, petitioner was removed from service by order dated 15.9.2008. Aggrieved by the order of conviction and sentencing him, petitioner filed Criminal Appeal No. 58 of 2008 on the file of the I Additional Sessions Judge, Nizamabad. The said appeal was allowed by judgment dated 30.5.2009. On 8.6.2009 petitioner submitted representation to recall order of removal and to re-induct him into service. On consideration of the said representation by order dated 19.9.2009, petitioner was reinstated.

4. Learned counsel for petitioner submits that on his acquittal by the Appellate Court, petitioner is entitled to reinstatement with all consequential benefits including payment of backwages and though petitioner was reinstated, illegally wages for the period of out of employment are not granted. He would submit that at least from the date of making representation after his acquittal, wages ought to have been granted. In support of his contention, Sri J.M.Naidu, placed reliance on the decision of the Supreme Court in **UNION OF INDIA Vs. JAIPAL SINGH**^[1], decision of this Court in **GOVERNMENT OF ANDHRA PRADESH Vs. D. JAGADESWARA RAO**^[2] and **STATE BANK OF INDIA Vs MOHAMMED ABDUL RAHIM**^[3].

5. Sri Battula Raj Kiran, learned counsel for respondent bank

submits that petitioner was out of employment on his own volition. During the period of out of employment, no service was rendered to the respondent corporation and therefore petitioner is not entitled to payment of wages for the period out of employment. According to learned counsel, merely because petitioner was acquitted, it is not automatic that employee can seek payment of backwages.

In support of his contention, he placed reliance on judgment of supreme Court in **MANAGEMENT OF RESERVE BANK OF INDIA, NEW DELHI Vs BHOPAL SINGH PANCHAL** ^[4].

6. It is not in dispute that petitioner was involved in cheque bounce case and was acquitted by the Appellate Court.

7. In **JAIPAL SINGH**, Union of India challenged the decision of the High Court granting backwages for the entire period of out of employment who was reinstated to service as a consequence to acquittal by the Appellate Court. Supreme Court observed that employer cannot be burdened with the liability of paying wages for the period of out of employment invited due to the personal conduct of the employee and therefore direction for payment of backwages for the period of out of employment, after conviction and till acquittal is set aside. Supreme Court directed payment of backwages from the date of acquittal till the date of reinstatement and also treatment of the period of out of employment as period on service for all other purposes.

8. In **STATE BANK OF INDIA** (cited supra) similar observations are made. However, the Supreme Court confined the payment of backwages only from the date of submission of representation after acquittal from the criminal Court.

9. The decision in **BHOPAL SINGH PANCHAL** do not come to the rescue of respondents. In fact, in the said case, bank paid full backwages from the date of dismissal from service till the date of reinstatement to duty. The employee also claimed full wages for the period of suspension. Supreme Court said suspension was at the instance of the conduct of the employee and employee did not discharge any service during such suspension, as such, bank cannot be saddled with the liability to pay him salary and allowances for the period of suspension and applied principle of 'No work No pay'.

10. As noticed above, in the instant case, petitioner was involved in cheque bounce case and ultimately acquitted. On acquittal, petitioner was reinstated into service and no further action was taken against the petitioner by the respondent corporation. In the above factual background and following the decision of the Supreme Court in **JAIPAL SINGH** and since counsel for petitioner confined claim of backwages only from the date of representation after acquittal, the writ petition is disposed of directing the respondent corporation to grant backwages to the petitioner from the date of submission of representation i.e.,8.6.2009 till he was reinstated. The arrears of backwages shall be paid to the petitioner within a period of two months from the date of receipt of copy of this order. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:3.8.2016
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HONOURABLE SRI JUSTICE P. NAVEEN RAO

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[\[1\]](#) (2004) 1 SCC 121
[\[2\]](#) 2009(3) ALT 429 (D.B.)
[\[3\]](#) (2013) 11 SCC 67
[\[4\]](#) (1994) 1 SCC 541