

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 121 of 2011

Dhan Singh Patel S/o Shri Ugrasen Patel, working as Project Administrator, Integrated Tribal Development, Jashpur, District Jashpur (C.G.).

---Petitioner

Versus

1. State of Chhattisgarh : Through Secretary, Department of Scheduled Tribe/Scheduled Caste, Other Backward Class & Minority Welfare, D.K.S. Bhawan, Raipur (C.G.).
2. The State of Madhya Pradesh, through the Secretary, Department of Scheduled Tribe/Scheduled Caste, Other Backward Class & Minority Welfare, Vallabh Bhawan, Bhopal (M.P.).
3. The Commissioner, Scheduled Caste & Scheduled Tribe Welfare Department, Premises of Ravishankar Shukla University, Raipur (C.G.).
4. The Commissioner, Scheduled Caste & Scheduled Tribe Welfare Department, Satpura Bhawan, Bhopal (M.P.).

---Respondents

For petitioner	:	Shri H.S.Patel, Advocate.
For State	:	Shri Chandresh Shrivastava, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29/06/2018

1. The challenge in the present Writ Petition is to Annexure-P/10 dated 25/09/2008 whereby the respondent authorities have dropped the departmental enquiry initiated against the petitioner and have held that there does not appear to be any misconduct committed by the petitioner and have found the action of the petitioner to be one which could be said to be a procedural irregularity on part of the petitioner not amounting to misconduct and after issuing a word of caution to the petitioner, the enquiry proceedings

have been dropped and the period of suspension has been said to be period spent on duty. During the period of suspension it has been ordered that, he would be entitled only for subsistence allowance and the period would also be treated as period spent on duty for the purpose of counting retiral and pensionary benefits payable to the petitioner.

2. The petitioner is aggrieved by the said order to the extent that, though the finding is that there is no misconduct committed by the petitioner, yet the petitioner cannot be denying the benefit of the entire pay and allowances that he would have been entitled for during the period of suspension minus the subsistence allowance.

3. The contention of the counsel for the petitioner is that, though the petitioner has not been inflicted with any punishment and therefore it has to be presumed that the department had wrongly placed the petitioner under suspension and therefore since the enquiry itself has been dropped, the petitioner should be paid the entire pay and allowances which he was otherwise entitled for. He further contended that, curtailing all the benefits of the petitioner for the period of suspension to the extent of only granting of subsistence allowance that he has received is uncalled for which itself amounts to punishment. The petitioner has been unnecessarily dragged in a departmental proceeding and also wrongly placed under suspension and since the order of suspension stands revoked and the departmental proceedings having been dropped, the petitioner should be paid the entire pay and allowances which he otherwise would have received had he not been placed under suspension.

4. The State counsel on the contrary opposing the petition submits that, there is no scope of any interference with the impugned order in as much as the order is as explicit as it could be and that it is only an order of the disciplinary authority keeping in consonance the provision of Rule 54-B of the Fundamental Rules governing the service condition.

5. According to the State counsel, the respondents have in their findings categorically held that, it is not a case where the petitioner has been totally exonerated of the allegations, but the finding of the authorities is that the action on part of the petitioner is one which could be brought within the ambit of procedural lapse not amounting to misconduct and therefore if the authorities concerned have treated the period of suspension as period spent on duty except for the entitlement of the entire wages for the period and confining it to the subsistence allowance that has been paid to the petitioner, the same cannot be said to be bad in law or in any manner contrary to the provision of Fundamental Rules.

6. Having heard the contentions put forth on either side and on perusal of record, particularly, taking note of the contents spelt out in the impugned order – Annexure-P/10 it appears that, the order of the authorities concerned is a speaking and reasoned order and they have reached to the conclusion that the action on part of the petitioner does fall within the ambit of procedural lapse and not misconduct and therefore a warning was issued to the petitioner and he was let off in the departmental enquiry.

7. While passing the impugned order, the authorities concerned have kept in mind the powers conferred upon the authorities under Fundamental Rules and while in exercising of the said powers under Rule 54-B, the authorities have ordered for the period of suspension to be treated as period spent on duty.

8. So far as the suspension period is concerned, the authorities have held that the petitioner for the said period would be entitled for only the subsistence allowance.

9. This Court does not find any strong case made out by the counsel for the petitioner calling for an interference with the impugned order and the same thus deserve to be and is accordingly set aside.

10. At this juncture the counsel for the petitioner submits that, for the period of suspension he has not been granted the benefit of annual increments which he is otherwise entitled for. He further submits that, the petitioner has not been granted the benefit of revision of wages that has occurred during the intervening period.

11. For the said claim this Court is of the opinion that, only for the reason that the petitioner was placed under suspension by itself would not be a ground for denying him the benefit of annual increments or for that matter the benefit of any revision of pay if any that has occurred in between the period of suspension. The same have to be given to the petitioner and the petitioner would be entitled for the subsistence allowance of the said

additional or enhanced wages that arises by virtue of the annual increments being added or by virtue of revised pay scale that has come into force.

12. If the same has not been paid to the petitioner, on the petitioner making a specific claim to the competent authority, the same shall be considered and decided without any further delay.

13. With the aforesaid observation, the Writ Petition stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit