

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 7057 of 2011**

Sunil Shrivastava S/o Lt. Shri H. N. Shrivastava, aged about 60 years, Occupation Rtd. Officer Class-I, Chhattisgarh Gramin Bank Branch – Gidhaouri, Tah. Kasdol, District Raipur (CG) at present R/o C/o S. R. Sao, Ward No.11, House No.11, area Budhi, near Railway Crossing District Balaghat (M.P.)

---- Petitioner**Versus**

1. The Chairman, Chhattisgarh Gramin Bank Head Office 1st Recreation Road, Choubey Colony, Raipur (CG)
2. The Regional Manager, Regional Office – Chhattisgarh Gramin Bank, above Dr. Tiwari Pathology Lab, Shankar Nagar Raipur, District Raipur (CG)
3. The Branch Manager, Branch Office – Chhattisgarh Gramin Bank Gidhaouri, Tahsil Kasdol, PO Gidhaouri, District Raipur (CG)

---- Respondents

For Petitioner	:	Shri Abhishek Saraf , Advocate
For Respondents	:	Shri B. D. Guru, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****17/08/2018**

The challenge in the present writ petition is to the order Annexure P-5 dated 29.07.2010 to the effect that the period of suspension has been ordered to be treated as period not spent on duty.

2. Facts of the case are that the petitioner while working as a Branch Manager with the respondents was involved in a criminal case in Crime No. 46/98 where the petitioner was charged for the offence under Section 498A

of IPC and Section 4 of the Dowry Prohibition Act at the instance of the wife of the younger brother of the petitioner. Immediately thereafter the services of the petitioner were placed under suspension on 17.04.1999. That finally vide judgment dated 25.03.2010 the petitioner stood acquitted in the said criminal case. The petitioner thereafter was granted joining by the respondents on which the petitioner continued his services till he attained the age of superannuation on 31.08.2011. Meanwhile, the respondents passed Annexure P-5 whereby the period of suspension has been treated as period not spent on duty.

3. Counsel for the petitioner submits that it is a case where the respondents did not initiate any disciplinary proceeding against the petitioner for any misconduct. It is the contention of the counsel for the petitioner that the petitioner was falsely implicated in a criminal case for which he could not have been blamed otherwise and the criminal case ultimately ended up by a judgment of acquittal in his favour. According to the petitioner, after the order of acquittal, the respondents had revoked the order of suspension and permitted the petitioner to resume duties. However, while passing the order, the authorities held that the period of suspension would be treated as period not spent on duty. It is this observation which is under challenge in the present writ petition.

4. At this juncture, it would be relevant to refer to the service regulations which govern the service conditions of the petitioner i.e. CG Gramin Bank Officers and Employees Service Regulations, 2007 (for short "the Regulation"). For ready reference Regulation 29 (2) is reproduced hereinunder:

"29. Officer or employee arrested for debt or on a criminal charge

(1) A officer or employee who is arrested for debt or on a criminal charge or is detained in pursuance of any process of law, may, if so directed by the Competent Authority, be treated as being or having been under suspension from the date of his arrest, or as the case may be, of his detention, upto such date or during such period as the Competent Authority may direct:

Provided that in respect of the period in regard to which he is so treated he shall be paid subsistence allowance as specified in Regulation 44.

(2) Any payment made to an officer or employee under Sub-Regulation (1) shall be subject to adjustment of his pay and allowances which shall be made according to the circumstances of the case and in the light of the decision as to whether such period is to be accounted for as period of duty or leave;

Provided that full pay and allowances shall be admissible only if the officer or employee-

(a) is treated as on duty during such period, and

(b) is acquitted of all charges or satisfies the Competent Authority, in case of his release from detention or the detention being set aside by the Competent Court, that he had not been guilty of improper conduct resulting in his detention.

(3) (a) An officer or employee shall be liable to dismissal or to any of the other penalties referred to in Regulation 38, if he is committed to prison for debt or is convicted of an offence which is the opinion of the Competent Authority, either involves moral turpitude, or has a bearing on any of the affairs of the Bank or on the discharge by the officer or employee of his duties in the Bank, the opinion in this respect of the Competent Authority shall be conclusive and binding on the officer or employee.

(b) Such dismissal or other penalty may be imposed as from the date of his committal to prison or conviction and nothing”

5. A plain reading of the aforesaid observation would make it clear that the issue involved in the case does not require much deliberation and

consideration as the Regulation itself is very clear. Once when the criminal case for which the petitioner has been placed under suspension stands decided in favour of the employee in as much as he stands acquitted of all the charges, it is to be presumed that the petitioner had been falsely implicated in the instant case and that the registration of the criminal case was with malafide intention. Under Regulation 29 2 (b) of the Regulation though it is held that the said delinquent employee would be entitled for full pay and allowances, taking into consideration the duration of the criminal trial which went on and that during all this period the petitioner did not discharge his duties with the respondents, this Court is of the opinion that ends of justice would serve if the impugned order is set aside to the extent that in stead of treating the said period as not spent on duty it shall be treated as period spent on duty. However, the petitioner would not be entitled for any monetary benefit for the period during suspension. However, for the purpose of grant of retiral dues and pensionary benefits, it is directed that the respondents shall consider the claim of the petitioner treating the entire period of suspension as the period spent on duty. The petitioner would also be entitled for all consequential benefits and also the monetary benefits so far as his retiral dues including pensionary benefits and other retiral dues which he would have got, had he not been placed under suspension.

6. The writ petition thus stands partly allowed.

**Sd/-
(P. Sam Koshy)
JUDGE**