

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 3417 of 2018

Lal Kumar Nayak S/o Shri Mukund Ram Nayak, Aged About 56 Years, Occupation Service, Presently Posted As Assistant Internal Account Examination And Tax Assessor Officer, In The Office Of Janpad Panchayat Malkharouda, District Janjgir Champa, Chhattisgarh.

---Petitioner

**Versus**

1. State Of Chhattisgarh, Through Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
2. Commissioner, Division Bilaspur, District Bilaspur, Chhattisgarh.
3. Collector, Janjgir Champa, District Janjgir Champa, Chhattisgarh.
4. Zila Panchayat, Janjgir Champa, Through Chief Executive Officer, Zila Panchayat, Janjgir Champa, Chhattisgarh.
5. Janpad Panchayat, Malkharouda, Through Chief Executive Officer, Janpad Panchayat, Malkharouda, District Janjgir Champa, Chhattisgarh.

---Respondents

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| For petitioner | : | Shri Akhtar Hussain, Advocate. |
| For State      | : | Ms.Sunita Jain, Panel Lawyer.  |

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Hon'ble Shri Justice P. Sam Koshy

Order on Board

28/11/2018

1. The present Writ Petition has been filed seeking direction to the respondents to consider the claim of the petitioner for grant of full salary and allowances which the petitioner would had been entitled for had he not being placed under suspension.
2. The facts of the case in brief is that, the petitioner while working on the post of Assistant Internal Account Examination and Tax Assessor Officer,

Janpad Panchayat, Malkharouda was placed under suspension on 02/08/2002 on account of his being involved in a criminal case for the offence punishable under Sections 409, 420, 467, 468, 471 r/w 34 of IPC. The petitioner finally stood acquitted in the criminal case i.e. criminal case No. 1012/2009 passed by the Judicial Magistrate First Class, Malkharouda, District Janjgir-Champa.

3. Meanwhile, pending the criminal case before the trial court, the department revoked the suspension of the petitioner vide order dated 09/03/2010 and the petitioner is since then working on the post.

4. The counsel for the petitioner submits that, since the criminal case has resulted in his acquittal, the petitioner would be entitled for the entire wages and other benefits that he would have got had he not been placed under suspension.

5. Perusal of record would reveal that, the petitioner in due course of time has been paid the subsistence allowance to the tune of 75% of the wages. The dispute thus remains as to whether he would be entitled for the balance of 25% of wages or not.

6. Given the nature of dispute this Court is of the view that, having got acquittal from the criminal case, the respondent authorities are supposed to consider and decide his claim so far as the entitlement of the period of suspension is concerned, as is envisaged under Section 54-B of the Fundamental Rules.

7. Since, the petitioner was working under the respondent No.4, let a decision be taken by the respondent No.4 if he is the competent authority as to how the suspension period has to be treated and whether the petitioner would be entitled for full wages and allowances (balance of what has already been paid).
8. Let this exercise be done within a period of 3 months from the date of receipt of copy of this order.
9. The Writ Petition accordingly stands disposed off.

Sd/-

**(P. Sam Koshy)**  
**JUDGE**

Sumit