

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5665 of 2018**

B. K. Sharma S/o Late Keshrilal Sharma, Aged About 56 Years,
Occupation Laboratory Technician In The Govt. Veer Surendra Say
PG College Gariband, District Gariyaband, Police Station City Kotwali
Gariyaband, R/o New Purana Forest Naka, Balak High School Road,
Gariyaband, Chhattisgarh

---- Petitioner**Versus**

1. The State Of Chhattisgarh Through Secretary Department Of Higher Education Mantralaya, New Raipur, Chhattisgarh
2. Commissioner, Department Of Higher Education, Block C, 3rd Floor, Indravati Bhawan, New Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Sunil Kumar Soni, Advocate
For State	:	Ms. Astha Shukla, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****30.08.2018**

The challenge in the present writ petition is that the period during which the petitioner was placed under suspension and was subsequently reinstated has not been considered by the authorities while granting reinstatement to the petitioner.

2. The facts of the case are that the petitioner was working as a Laboratory Technician at Govt. Veer Surendra Say PG College, Gariband. He was placed under suspension for an offence under Sections 304B and 498A of IPC and was also convicted for the said offence vide judgment

dated 15.04.1998 in ST No. 335/1993 passed by the 1st Additional Sessions Judge, Jagdalpur. That against this the petitioner preferred an appeal i.e. Criminal Appeal No. 957/1998 which was allowed on 24.01.2014 and the petitioner stood acquitted from all the charges.

3. Meanwhile, the respondents had issued an order of dismissal from service on 31.07.2012 on account of the petitioner being convicted in the criminal case. After the order of conviction being set aside by the High Court vide its order dated 24.01.2014, the respondents issued an order of reinstatement on 09.12.2014. However the intervening period between 22.06.1998 to 31.12.2007 i.e. the period of suspension and from 31.12.2007 to 09.12.2014 during which he stood dismissed from service has not been considered by the respondents in accordance with the requirement under Rule 54A of the Fundamental Rules.

4. The issue raised in the writ petition does not need any deliberation as it is by now well settled proposition of law that once when the order of conviction, dismissal or suspension is revoked and the employee is taken back in service, the respondents authorities are incumbent to decide the manner in which the intervening period has to be treated. In the instant case, no such order appears to have been passed. The opinion of this Court stands fortified from the decision of the Supreme Court in the case of Jaipur Vidyut Vitran Nigam Limited and others Versus Nathu Ram (2010) 1 SCC 428.

5. Given the aforesaid facts, let respondent no.2 now take a decision as regards how the period of suspension and the period during which the petitioner stood dismissed from service has to be treated in the light of the Rule 54A of the Fundamental Rights. The respondents would also

consider whether the petitioner is entitled for all other consequential benefits which the petitioner would otherwise have got, had he not been placed under suspension or had he not been dismissed. Let this exercise be completed within a period of 90 days from the date of receipt of certified copy of this order.

6. The writ petition thus stands allowed and disposed of with the aforesaid observation.

**Sd/-
P. Sam Koshy
Judge**