

HIGH COURT OF MADHYA PRADESH**WP No.4512/2016**

Bhawanidas D/o Shri Narayan Rajwanshi Vs. General
Manager, Western Railway & others

Indore, Dated: 03/04/2018

Ms.Purnima Kanoongo, learned counsel for petitioner.

Shri H.Y Mehta, learned counsel for respondent No.1
and 2.

Ms.Rajni Vajpayee, learned counsel for respondent
No.3.

Heard finally with consent.

By this writ petition, the petitioner has prayed for a
direction to the respondent No.1 and 2 to take appropriate
legal action against the respondent No.3 on the ground that he
has been convicted for offence committed by him. The prayer
in the writ petition is:-

"7. Relief Sought:

In the facts and circumstances of the case, petitioner
humbly prays that this petition may kindly be allowed and
by issuing appropriate Writ, Direction or Order,

- i. Respondent no.1 and 2 be directed to take appropriate
legal action against the respondent no.3 in view of the
fact that he has been convicted for the offences
committed by him.
- ii. Costs of this petition be awarded,
- iii. Any other appropriate relief, which this Hon'ble court
may deem fit, be awarded to the petition."

The case of the petitioner is that the respondent No.3 is
an employee of the respondent No.1 and 2 and the
respondent No.3 was prosecuted for the offence of committing
rape upon the petitioner in which he was convicted by the trial
court and in appeal only the sentence has been suspended,
but the respondent No.1 and 2 have revoked the order of
suspension as if the respondent No.3 has been acquitted in

the matter.

Learned counsel for petitioner submits that since the respondent No.3 has been convicted, therefore, some action should be taken by the respondent No.1 and 2 against him and he should not be reinstated in service.

As against this, respondents have submitted that pending the trial the respondent No.3 was suspended but since in appeal the sentence has been suspended, therefore, the respondent No.3 has been reinstated in service.

Having heard the learned counsel for parties and on perusal of the record, it is noticed that the respondent No.3 was suspended from service with effect from 3/1/2013 and he has remained under suspension for more than two years thereafter the suspension of the respondent No.3 has been revoked by order dated 29/4/2005 exercising the power under Rule 5(5)(c) of the Railway Services (Discipline and Appeal) Rules, 1968. Learned counsel for petitioner has failed to point out any error in reinstatement of the petitioner nor she has pointed out any departmental rule under which the action is to be taken against the respondent No.3 in a case where his sentence has been suspended in appeal.

So far as the grievance of harassment raised by the petitioner is concerned, the order dated 29/3/2012 passed in WP No.3120/2012 Annexure P/1 reveals that the suitable directions have already been issued by this court that on production of copy of the said order of the court, the concerned Station Officer will take necessary steps. Even otherwise at this stage if the petitioner is being harassed by the respondent No.3, then it would be open to her to file an appropriate complaint before the competent authority.

Having regard to the aforesaid, I am of the opinion that no case is made out to issue any mandamus to the

respondents as prayed in the present writ petition as the counsel for petitioner has failed to point out any such legally enforceable right in this regard.

Hence, the writ petition is dismissed.

(PRAKASH SHRIVASTAVA)
Judge

vm

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