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**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 3039 of 2019**

Rakesh Kumar Rathore S/o Shri Laxmi Narayan Rathore, Aged About 38 Years, R/o Village Bathora, P.O. Bhilai Bazar, Via- Kusmunda, Tehsil Katghora, P.S. Hardi Bazar, District- Korba, Chhattisgarh, Presently Posted As Lecturer, Government Higher Secondary School Bagicha, District- Jashpur, Chhattisgarh

**---- Petitioner****Versus**

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawa, Atal Nagar, District- Raipur, Chhattisgarh
2. District Education Officer, District- Jashpur, Chhattisgarh
3. Commissioner, Sarguja Division, District- Ambikapur, Chhattisgarh
4. Collector, Jashpur, District- Jashpur, Chhattisgarh
5. Block Education Officer, Bagicha, District- Jashpur, Chhattisgarh

**---- Respondents**


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| For Petitioner | : | Mr. Pawan Kesharwani, Advocate |
| For State      | : | Mr. Anshuman Shrivastava, P.L. |

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**Hon'ble Shri Justice P. Sam Koshy****Order On Board****25.04.2019**

1. The claim of the petitioner in the present writ petition is for an appropriate direction to the respondents for grant of difference of wages and allowances subsequent to the revocation of the order of suspension

on 28.08.2017.

2. Facts of the case, in brief, are that the petitioner was working under the respondents as a Lecturer. In the year 2015, the petitioner got involved in a criminal case for the offence punishable under Sections 419, 420, 441, 468 & 114 of IPC and Sections 6 & 10 of the Chhattisgarh Examination Act, 2008. In the said criminal case, the petitioner remained in custody from 26.10.2015 to 05.11.2015, and thereafter he was placed under suspension w.e.f. 18.11.2015. The petitioner faced the criminal trial before the Court of Judicial Magistrate First Class, Bagicha, District Jashpur in Criminal Case No. 502/2015 and the said criminal case finally resulted in his acquittal vide judgment dated 30.03.2017 on getting the benefit of doubt. Subsequent to his acquittal from the criminal case, the petitioner was reinstated in service vide order dated 28.08.2017 passed by the Commissioner, Surguja Division, District Ambikapur. Though the order of revocation of suspension was passed on 28.08.2017, the petitioner was finally given posting order on 25.09.2017 by respondent no.2, the District Education Officer, Jashpur.
3. Counsel for the petitioner now has put forth two claims; Firstly, the petitioner stands acquitted in the criminal case which was initiated by the Department itself, therefore, the petitioner now should be given the entire wages and other benefits that he would have received had he not been placed under suspension. He submits that even after revocation of suspension order on 28.08.2017, the petitioner has not been paid the entire wages that he is entitled for though he has been working with the Department since then.

4. State counsel, opposing the writ petition, submits that since the petitioner was involved in a criminal case and in between, he had also undergone custody for a considerable period of time, the services of the petitioner were placed under suspension which cannot be said to be in any manner bad in law or contrary to the rules. Since after the judgment of acquittal the petitioner has been taken back in service on revocation of his suspension order, the petitioner would be entitled only for subsistence allowance during the suspension period and not for anything else. It was contended that after the petitioner was reinstated, he has also been given posting vide Annexure P-2 dated 25.09.2017 and the petitioner must have been paid the entire salary after revocation of suspension order and the petitioner having resumed his duties.
5. Having heard the contentions put forth on either side and on perusal of record what is undisputed from the pleadings that has been made is that the petitioner was placed under suspension on 18.11.2015 because of his being involved in a criminal case and the matter was put to trial before the Court of JMFC, Bagicha, District Jashpur. The criminal case finally resulted in acquittal of the petitioner getting the benefit of doubt vide judgment dated 30.03.2017. The order of suspension stood revoked vide order dated 28.08.2017. The order of revocation dated 28.08.2017 clearly reflects that the petitioner would be entitled for only subsistence allowance during the suspension period and for all other practical purposes including pensionary benefit, the said period would be treated as period spent on duty.
6. So far as granting of the entire wages during the period the petitioner

had faced the criminal trial is concerned, this Court is of the opinion that the petitioner may not be entitled for the benefit other than subsistence allowance that he has received in view of the fact that the petitioner admittedly was facing a criminal trial before the criminal Court at Bagicha, District Jashpur and undisputedly the petitioner for a considerable period was under judicial custody. The view of the Court is fortified by a recent decision of the Hon'ble Supreme Court in the case of **Raj Narain Vs. Union of India & others** in Civil Appeal No. 3339 of 2019 decided on 1st of April, 2019.

7. However, so far as the contention of the petitioner that he has not been paid the entire wages even after the order of suspension being revoked on 28.08.2017 is concerned, this Court is of the firm view that once when there is a judgment of acquittal in favour of the petitioner and the competent authority has revoked the order of suspension, the petitioner would be entitled for the entire wages thereafter. It is therefore ordered that the petitioner shall be entitled for the entire wages that he is entitled for against the post that he is working from the date of revocation of suspension order i.e. 28.08.2017 onwards. It is made clear that it is not 25.09.2017 since when the petitioner would be entitled for, as the petitioner for all practical purposes would stand taken back in service from 28.08.2017 itself and it is only an order of posting given by the District Education Officer on 25.09.2017 Annexure P-2. The petitioner cannot be treated as an employee under suspension during the period from 28.08.2017 to 25.09.2017 and the petitioner cannot be denied the wages for the said period as the order of suspension was revoked vide order dated 28.08.2017, therefore, he no longer can be treated as a

suspended employee beyond 28.08.2017. Thus, the petitioner would be entitled for the entire wages from 28.08.2017 and if it has not been paid, the Department may release the said amount immediately.

8. The writ petition accordingly stands disposed of.

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