

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7940 of 2019

Santosh Kumar Bhaskar S/o Shri Santu Ram Bhaskar Aged About 42 Years
Lecturer (L.B.) Govt. High School, Gangapur, Block- Surajpur, District- Surajpur,
Chhattisgarh., District : Surajpur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Secretary Department Of School Education Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Collector Surajpur, District- Surajpur, Chhattisgarh., District : Surajpur, Chhattisgarh
4. Zila Panchayat Surajpur, Through Chief Executive Officer, Zila Panchayat, Surajpur, District- Surajpur, Chhattisgarh., District : Surajpur, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Hemant Kesharwani, Advocate
For State	:	Ms. Sunita Jain, G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

30/09/2019

1. The challenge in the present writ petition is to the impugned order Annexure P/1 dated 04.02.2019, whereby the respondents have reached to a conclusion that the period of suspension shall be treated as spent on duties and the petitioner could be entitled only for subsistence allowance and the period would be treated as "No Work No Pay" so far as the regular salary part is concerned.
2. That fact of the case is that the petitioner was placed under suspension vide order dated 03.05.2013 on account of the petitioner getting involved in a criminal case for the offence punishable under Sections 498A, 294, 323 & 506 of the Indian Penal Code. The petitioner was also arrested on 15.04.2013 in this regard. Subsequently, the criminal case resulted in the

acquittal of the petitioner vide order dated 29.04.2016, thereafter the Department had vide its order dated 30.05.2016 revoked the order of suspension and taken back the services of the petitioner and it was also held that for all practical purposes the intervening period shall be treated as continuous in service.

3. Subsequently, the respondent No.4 has now modified the order dated 30.05.2016 vide its order dated 04.02.2019 holding that during the said period applying the principles of "No Work No Pay" the petitioner would not be entitled for any actual monetary benefits other than the subsistence allowance that the petitioner has received, however for other practical purposes the said period of suspension shall be treated as period spent on duty.
4. This Court does not any strong case made out by the petitioner calling for an interference to the said order. The fact is undisputed that the petitioner was placed under suspension on account of his being arrested in a criminal case for the offence punishable under Sections 498A, 294, 323 & 506 of the Indian Penal Code. During the said period the petitioner was placed under suspension pending the criminal case. The criminal case finally vide judgment dated 29.04.2016 culminated in the acquittal of the petitioner. After the acquittal of the petitioner, the Department immediately revoked the suspension and took back the petitioner in service. The Department while taking back the petitioner in service held that the intervening period would be treated as period spent on duty. The petitioner however had approached the authority for releasing of the salary also for the intervening period, which the respondents have now declining holding that the petitioner would not be entitled for the same applying the principles of "No Work No Pay".

5. When the facts are undisputed that the petitioner was facing a criminal case and the petitioner was also arrested and was later on released on bail, coupled with the fact that the petitioner has also not discharged his duties during the said period. The decision to treat the said period as “No Work No Pay” cannot be said to be either bad in law or malafide in any manner, neither is there any allegations of malafide leveled against the petitioner. The Department as it is has already taken a decision for treating the intervening period as period spent on duty, which by itself means that the petitioner would be getting all the benefits by way of notional fixation, but the petitioner however would not be entitled for any actual monetary benefits for the intervening period.
6. The writ petition thus being devoid of merits deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved