

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 1008 of 2020

1. Ashok Verma S/o Late B.R. Verma Aged About 52 Years R/o Amaltas Puram Colony, Quarter No. C-15, Gokulpur Ward Dhamtrari, District - Dhamtari (C.G.)

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Water Resources Department, New Raipur (C.G.).
2. Engineer-In-Chief Water Resources Department, Sector - 19, Shivnath Bhawan, Atal Nagar, Raipur (C.G.).

---Respondents

For Petitioner	:	Shri Saket Pandey, Advocate.
For Respondent State	:	Shri Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18.03.2021

1. The challenge in the present writ petition is the order of dismissal from service dated 09.03.2015. Vide the said order, the services of the petitioner stood terminated on account of petitioner being convicted in a criminal case for the offence punishable under Sections 409 and 414 IPC vide judgment dated 15.01.2015 passed by the Chief Judicial Magistrate, North Bastar Kanker.
2. The facts of the case is that, the petitioner was working under the respondents on the post of Sub Engineer. That, on the alleged misappropriation of 680 bags of Cement a criminal case under Sections 409 and 414 IPC was registered against the petitioner. The matter was put to trial before the court of Chief Judicial Magistrate, North Bastar Kanker. The criminal case finally led to the conviction of the petitioner vide judgment dated 15.01.2015 whereby the petitioner was convicted and sentenced to undergo RI for four years. The said order of conviction was subjected to challenge in an appeal by the petitioner before the Additional

Sessions Judge, Kanker where the appeal preferred by the petitioner also stood rejected vide judgment dated 13.02.2015.

3. The judgment of rejection of appeal and the judgment of conviction were subjected to challenge further by way of a Criminal Revision before the High Court vide Criminal Revision No.145/2015 and the High Court finally vide its judgment dated 30.07.2019 allowed the revision setting aside two two judgments passed by the trial court as also by the appellate court and had acquitted the petitioner from all the charges.
4. Subsequently, the petitioner had moved a representation to the authorities concerned asking for reinstatement in service in the light of the judgment of acquittal granted by the High Court which till date is pending consideration.
5. From the factual matrix which has been given in the preceding paragraphs admittedly the basis on which the petitioner was terminated from service was his conviction and vide judgment dated 30.07.2019 passed by the High Court in Criminal Revision No.145/2015 the judgment of conviction stands set aside/quashed and the petitioner has been ordered to be acquitted from all the charges. That as such the basis on which the order of termination was passed does not exist any further and there is no further disqualification against the petitioner from being taken back in service. Moreover, the department as such till date has not initiated any disciplinary proceedings against the petitioner for the said cause of action.
6. It would be relevant at this juncture to refer to the judgment of Supreme Court in case of Basanti Prasad Vs. Chairman, Bihar School Examination Board and Others, 2009(6)SCC 791, wherein in paragraph 28 the Supreme Court has held as under:

“28. Since, the punishment imposed was based on an order of conviction and since the same is set aside by an order

passed by a superior forum and that order having become final for various reasons, including the death of the appellant's husband, as natural corollary, the request of the appellant requires to be redressed by the employer and since that was done, a writ court ought to have come exercised its extraordinary jurisdiction by commanding the respondents to redress the grievance of the appellant without resorting to a hypertechnical approach. In view of the above, the order passed by the respondents terminating the services of the appellant requires to be set aside and we do so."

7. In view of above factual matrix and the judicial pronouncement as reflected in the preceding paragraphs, this court has no hesitation in reaching to the conclusion that the petitioner in the instant case also deserves reinstatement in service since the order of termination was only on the ground of conviction and now the judgment of conviction have been set aside/quashed by the High Court in Criminal Revision.
8. The petition is accordingly allowed. The respondents are directed to immediately pass appropriate orders for reinstatement of the petitioner in service.

Sd/-

(P. Sam Koshy)
Judge