

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 3244 of 2013**

Dariyao Singh Vashishtha, Aged about 62 years, S/o
Late Shri Deenasingh, Ganjpara Balod, P.S. Balod,
Distt. Balod, Chhattisgarh.

---Petitioner

Versus

1. State of Chhattisgarh through the Secretary, Govt. of Chhattisgarh, Department of Agriculture Ministry, P.S. Rakhi, Raipur, Chhattisgarh.
2. Chhattisgarh Rajya Krishi Vipnan Board, through the Managing Director, Bij Bhawan, GE Road, Telibandha, Raipur, P.S. City Kotwali, Raipur, Chhattisgarh.
3. Krishi Upaj Mandi Samiti, Through the Secretary, Krishi Upaj Mandi Samiti, Balod, P.S. Tahsil and Distt. Balod, Chhattisgarh.

---Respondents

For Petitioner :- Mr. Vinod Kumar Sharma, Advocate
For Respondent 1/State:- Mr. Animesh Tiwari, Dy. A.G.
For Respondents 2 & 3 :- Mr. Y.S. Thakur, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

05/10/2021

1. Petitioner herein calls in question the order dated 22/06/2012 (Annexure P/1) by which he has been denied the benefit of salary and other allowances

from the date of termination i.e. 31/08/2001 till the date of superannuation i.e. 31/11/2010 on the principle of 'no work no pay'.

2. Mr. Vinod Kumar Sharma, learned counsel for the petitioner, would submit that though petitioner has been acquitted honorably by order dated 29/01/2011 passed by this Court in Criminal Appeal No. 663/2001, yet he has not been given salary and other allowances from the date of termination till the date of superannuation on the principle of 'no work no pay' whereas Rule 37(2) of the Chhattisgarh Rajya Mandi Board Viniyam, 1998 would apply and petitioner would be entitled for salary and other allowances from the date of termination till the date of superannuation as he was not responsible for delay in the conclusion of the proceeding, therefore, the impugned order is liable to be set aside to that extent.
3. Mr. Animesh Tiwari, learned State counsel for respondent No. 1/State, and Mr. Y.S. Thakur, learned counsel for respondents No. 2 and 3 would support the impugned order.
4. I have heard learned counsel for the parties, considered their rival submissions and perused the records.

5. The petitioner was convicted for offence punishable under Sections 7, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988 on 24/07/2001 by the jurisdictional criminal Court and consequently, he was terminated from service on 31/08/2001 under Regulation 34 read with regulation 30(5) of the Regulations of 1998. Thereafter, he was acquitted honorably by order dated 29/01/2011 passed by this Court in Criminal Appeal No. 663/2001 and he was taken back in service. It is the case of the petitioner that from the date of his termination till the date of his superannuation, he has not been given salary and other allowances on the principle of 'no work no pay'.

6. At this stage, it would be appropriate to notice Regulation 37 of the Regulations of 1998, which states as under :-

“37. पुनः स्थापना किये जाने पर वेतन, भत्ते तथा सेवा की अवधि की गणना :

(1) जब सेवा के किसी सदस्य को जिसे पदच्युत कर दिया गया हो, हटा दिया गया हो या निलंबित कर दिया गया हो पुनः स्थापित कर दिया जाए तो पुनः स्थापना का आदेश देने के लिए सक्षम प्राधिकारी निम्नलिखित बातों पर विचार करेगा और विशिष्ट आदेश देगा :-

(क) सेवा के सदस्य को कर्तव्य से उसकी अनुपस्थिति की कालावधि के लिए दिए जाने वाले वेतन तथा भत्ते के सम्बन्ध में,

(ख) उक्त कालावधि को कर्तव्य पर व्यतीत की गई कालावधि माना जाएगा या नहीं इस सम्बन्ध में |

(2) जहाँ उप विनियम (1) में उल्लेखित प्राधिकारी की यह राय हो की सेवा के सदस्य को पूरी तरह से दोषमुक्त कर दिया गया है व निलंबन पूरी तरह असंगत था तो उसे पूरा वेतन तथा भत्ता दिए जायेंगे जो वह उस स्थिति में पाने का अधिकारी होता यदि उसे यथा स्थिति, पदच्युत, हटाया या निलंबित न किया गया होता |

(3) अन्य मामलों में सदस्य को ऐसा वेतन तथा भत्ते उस अनुपात में दिए जावेंगे जैसा नियुक्ति प्राधिकारी अवधारित करे |

परन्तु उप विनियम (2) या (3) के अधीन भत्तों का भुगतान समस्त अन्य शर्तों के अध्याधीन रहते हुए होगा, जिनके अधीन ऐसे भत्ते अनुज्ञेय होते हैं | परन्तु यह और भी की ऐसे वेतन तथा भत्तों का यह अनुपात नियमों के अधीन अनुज्ञेय जीवान निर्वाह तथा अन्य भत्ते से कम नहीं होगा |”

7. A careful perusal of the impugned order would show that petitioner's case for grant of backwages from the date of termination till the date of superannuation has not been considered and it has been directed that petitioner will not be paid salary and other allowances from the date of termination till the date of superannuation on the principle of 'no work no pay' whereas in light of Regulation 37(2) of the Regulations of 1998, the petitioner will be entitled for salary and other allowances from the date of termination till the date of superannuation as he was acquitted honorably by order dated 29/01/2011 passed by this Court in Criminal Appeal No. 663/2001. Accordingly, serial No. 2 of the impugned order stating that petitioner is not entitled for salary and other

allowances from the date of termination till the date of superannuation on the principle of no work no pay is hereby set aside.

8. Matter is remitted to the competent authority i.e. Managing Director of respondent No. 2 to consider and dispose of petitioner's claim for salary and other allowances from the date of termination till the date of superannuation relying upon Regulation 37(2) of the Rules of 1998 by passing a reasoned and speaking order. It is made clear that this Court has not expressed any opinion on the merits of the matter and the question of backwages will be decided by the competent authority as per law on the basis of material available on record within 60 days from the date of receipt of a copy of this order.

9. With the aforesaid observation, this writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet