

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 450 of 2020**

{Arising out of Order dated 30.09.2019 passed in Writ Petition (S) No. 7940 of 2019 by the learned Single Judge}

Santosh Kumar Bhaskar S/o Santu Ram Bhaskar, Aged about 43 years, Lecturer (LB) at Government High School, Gangapur, Block Surajpur, District Surajpur, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, through the Secretary, Department of Panchayat & Rural Development, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur, Chhattisgarh.
2. The Secretary, Department of School Education, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur, Chhattisgarh.
3. The Collector, Surajpur, District Surajpur, Chhattisgarh.
4. The Chief Executive Officer, Zila Panchayat, Surajpur, District Surajpur, Chhattisgarh.

---- Respondents

For Appellant	: Shri Ravi Maheshwari, Advocate.
For Respondent No. 1 to 3/State	: Shri Chandresh Shrivastava, Deputy Advocate General.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per P.R. Ramachandra Menon, Chief Justice****04/01/2021**

1. Whether the Appellant/employee who was placed under suspension for having detained in judicial custody (in accordance with the rules) is entitled to get full salary and allowances for the period he was kept out of service as a matter of right, on his reinstatement pursuant to the acquittal in the criminal case, is the point to be considered. The answer given in the 'Negative' by the learned Single Judge confining the relief only to payment

of subsistence allowance, continuity of service and such other benefits including the notional fixation, (denying the actual monetary benefits during the intervening period as ordered by the Department) is put to challenge in this appeal.

2. The sequence of events shows that the Appellant who got appointed to the post of Shiksha Karmi Grami, Grade II on 27.01.2007 was posted in the Middle School, Kacholapara, Janpad Panchayat, Pratapur, District Surguja. After completion of probation, he was confirmed/regularized. While so, he was arrested on 15.04.2013 in connection with Crime No. 4 of 2013 of the Mahila Thana, Ambikapur, District Surguja for the offences punishable under Section 498-A, 294, 323 and 506-II of the Indian Penal Code and was kept in judicial custody, thus leading to suspension of the Appellant on 03.05.2013 by the 4th Respondent. On conclusion of the trial, the Appellant came to be acquitted as per Annexure P/3 judgment dated 29.04.2016; pursuant to which he was reinstated in service as per Annexure P/4 order dated 30.05.2016 passed by the 4th Respondent. Since the monetary benefits were not granted (other than subsistence allowance), representation was preferred which came to be rejected as per Annexure P/1 order dated 04.02.2019. This was put to challenge in the writ petition, contending that the Appellant/Petitioner was entitled to have full salary and allowances during the period of suspension in view of the subsequent acquittal and reinstatement.
3. The learned Single Judge considered the matter and held that denial of the salary and other benefits (except the subsistence allowance), applying the principle of 'no work - no pay', was not liable to be interdicted in view of the undisputed facts and figures leading to the arrest, registration of a criminal case and the subsequent events. It was also observed that the Department had immediately revoked the order of suspension and reinstated the Appellant in service, pursuant to the acquittal ordered by the Trial Court in

the previous month. The learned Single Judge further observed that the Petitioner had not discharged any duty during the said period and further that there was no allegation of any malafides; simultaneously holding that the Petitioner would be getting all the benefits by way of notional fixation.

4. Shri Maheshwari, the learned counsel appearing for the Appellant submits that the denial of salary and other benefits despite the acquittal ordered by the competent Trial Court and reinstatement by the 4th Respondent, who had not initiated any disciplinary proceedings against the Appellant, is not correct and that the entire monetary benefits ought to have been ordered to be released. Reliance is sought to be placed on a judgment rendered by the Division Bench of the Punjab and Haryana High Court on 23.11.2000 in ***Hukam Singh v. State of Haryana & Another.***
5. Shri Chandresh Shrivastava, the learned Deputy Advocate General appearing on behalf of the State/Respondents submits that the payment of monetary benefits is not automatic and that the law is well settled by the Apex Court. Some of the decisions which have been relied on by the Respondents have been adverted to by the learned Judge. It is also pointed out that the legality of the claim under similar circumstance has already been considered by this Court in Writ Appeal No. 329 of 2019 (***Rakesh Kumar Rathore v. State of Chhattisgarh & Others***) and as per the judgment dated 17.07.2019, a categorical finding has been given to the effect that it cannot be claimed as a matter of right and that it depends upon various facts and circumstances which may vary from case to case. Verdict passed by the learned Single Judge was in view of the law declared by the Supreme Court as per the recent judgment dated 01.04.2019 in Civil Appeal No. 3339 of 2019 (***Raj Narain v. Union of India & Others***), dismissing the appeal.
6. At the outset, it is to be noted that the appeal has been filed with a petition to condone delay of 368 days. The only reason stated in IA No. 1 of 2020

for condonation of delay in filing the appeal is that the Appellant had "no knowledge of limitation"; by virtue of which he could not contact his counsel within the stipulated period. Further, the Appellant has also stated that this Court was 'not functioning properly' during the pandemic season and hence, he could not file the appeal.

7. Ignorance of law is no excuse. The version of the Appellant that he did not know the law of limitation and hence could not meet his counsel during the stipulated period, cannot be a tenable ground for condoning the delay. The further insinuation that this Court was not functioning properly, is also not correct as the lock-down was only for a short period of 21 days from 24.03.2020 till 14.04.2020. As per the various notifications issued by this Court, it was functioning both on 'Virtual' and 'Physical' modes at the relevant points of time, keeping the doors open for all aggrieved parties. It is also a matter of record that more than 10,000 cases has been finally heard and disposed of during the Covid pandemic time. As it stands so, the casual and cursory averment that this Court was not functioning properly is only to be rejected as devoid of any merit. We are of the view that the Appellant has not offered any explanation to condone the inordinate delay, much less any satisfactory explanation.
8. Coming to the merit of the case, there is no dispute as to the involvement of the Appellant in a Crime registered by the Police against him in connection with a matrimonial dispute between him and his wife. It was pursuant to the arrest and detention in judicial custody for more than 48 hours, that the Appellant came to be suspended as per Annexure P/2 order dated 03.05.2013. Later, he was reinstated in service, pursuant to the acquittal in the criminal case (as per Annexure P/3 judgment dated 29.4.2016).
9. The suspension of the Appellant was admittedly never due to any action or insinuation made by the Department but because of the mandate under Rule 4 of the above Rules; on getting himself involved in a criminal case

registered at the instance of his wife in connection with a matrimonial dispute and having been in custody for more than 48 hours. As rightly observed by the learned Single Judge, there is no averment in the writ petition that the suspension was actuated by any *mala fides*. The Petitioner however has attempted to project that he has been "exonerated completely" by the Trial Court and hence he is entitled to get full salary and allowances, on reinstatement pursuant to his acquittal. The pertinent aspect to be considered is whether the Appellant has been "cleared of all the blame" by granting an '**honourable acquittal**' or has he been acquitted because of the failure on the part of the prosecution in proving the case. Paragraph 21 of Annexure P/3 judgment passed by the Trial Court is relevant and hence the same is extracted as given below:

"21. अतः उपरोक्त निष्कर्ष के आधार पर अभियोजन अभियुक्त के विरुद्ध युक्ति-युक्त संदेह से परे अपराध प्रमाणित करने में असफल रहा है। इसलिए यह न्यायालय अभियुक्त के विरुद्ध आरोपित उपरोक्त धारा-498 "ए", 294, 506 भाग-2, 323 भा0द0वि0 के अंतर्गत दोषी नहीं पाती है। इसलिए यह न्यायालय अभियुक्त को धारा- 498 "ए", 294, 506 भाग-2, 323 भा0द0वि0 के आरोप से दोषमुक्त करती है।"

From the above, it is explicitly clear that the acquittal ordered by the Trial Court was on holding that the prosecution could not prove the charge in respect of the offences 'beyond reasonable doubt', which is not an 'honourable acquittal'.

10. It has been held by the Apex Court on umpteen occasions, that there is no unfettered right to claim backwages in every case of reinstatement as a matter of course. On the other hand, it depends on the facts and circumstances of each case. The Apex Court in ***K. Ponnammamma v. State of Kerala & Others***; {AIR 1997 SC 3660} considered the question whether after acquittal, the employee would be entitled to the entire salary for the period of suspension; which was answered in the '**negative**' and held in the following words:

"3. A reading thereof would clearly indicate that where an officer has been kept under suspension, on account of the pendency of the charges/detention for 48 hours and continued

to remain under suspension pending the trial of the criminal charge, statutorily he/she is disabled to perform the duties of the post. On reinstatement under Rule 56, the competent authority shall have a duty to consider whether, on reinstatement, suspended officer would be entitled to the payment of full pay etc. for the period of his suspension. The mandate of Rule 56 is that the competent authority should consider the case in accordance with the rules and pass the order. The nature of the order is discretionary depending upon the facts in the case. It is seen that on account of the involvement of the petitioner in a criminal charge by statutory operation, she was under suspension till she was acquitted. On acquittal, the departmental enquiry was conducted as to the nature of the order to be made under Rule 56. Accordingly, the authority, in its discretion, found that the payment of the salary during the period of suspension except suspension allowance already paid, could not be granted. It being in accordance with the Rules, we do not think that the High Court has committed any error warranting interference."

11. In ***Rakesh Kumar Rathore*** (*supra*), this Court also had an occasion to consider a similar question and it has been observed in paragraph 8 as follows:

"8. Learned counsel representing the petitioner/appellant submits that the course pursued by the learned Single Judge is not correct or proper and since the entire disciplinary proceeding initiated against the appellant had already been dropped, the appellant is entitled to get full salary for the period of suspension as well. We find it difficult to accept the said proposition, more so, since even according to the appellant, the only circumstance under which the acquittal was granted by the Court was by granting "benefit of doubt". In other words, there is no case of the appellant that he was granted "honourable acquittal". Nor is there any case for the appellant that the prosecution launched against him was a malicious one or it was false and fabricated. A person who is proceeded against for his deeds or misdeeds, if ultimately comes to be acquitted from the criminal charge for the fact that the prosecution had failed to prove the offence 'beyond reasonable doubt' or by granting "benefit of doubt", cannot aspire the State to pay him the entire service benefits. The tax payers' money cannot be sought to be siphoned out insofar as the action against the appellant was pursuant to his own deeds or misdeeds, especially when he does not have any case that there was any attempt on the part of the State/respondents in falsely implicating him in the crime."

12. Coming to the case law cited by the Appellant, the employee concerned was initially suspended and was later terminated from service due to conviction in criminal case. Though the conviction was upheld by the High Court of Punjab and Haryana, the Apex Court allowed the appeal and acquitted the appellant; who then sought for regularisation of the period of suspension

and for granting the full salary and allowances during the period in question. In fact, though the employee was reinstated in service, the benefit was confined only to payment of subsistence allowance (which was already paid). The claim was turned down, placing reliance on the verdict passed by the Apex Court in ***K. Ponnamma*** (supra) and also the decision rendered in ***Hukmi Chand v. Jhabua Cooperative Central Bank Ltd. Jhabua (MP) & Another***; {1998 (3) Recent Services Judgments 306} with reference to Rule 7.3 of the Punjab Civil Services Rules Volume 1 Part 1. On challenging the impugned order, a Division Bench of the Punjab & Haryana High Court held that the decision rendered by the Apex Court in ***K. Ponnamma*** (supra) and ***Hukmi Chand*** (supra) was with reference to the particular rules; which gave a discretion to the authorities to consider the payment of the benefit during the period of suspension, which was not the position in respect of the Punjab Civil Services Rules. The Bench also observed that **Rule 7.3 of the Punjab Civil Services Rules** relied on by the authorities to reject the claim in exercise of the discretion, was only a 'General Rule'; whereas the correct rule to be applied was **Rule 7.5**, to be treated as the 'Special Rule' dealing with the suspension during the pendency of the criminal proceedings and the effect thereafter. After extracting both the rules, it was held that Rule 7.5 would prevail over the General Rule 7.3 and that the decision rendered by the Apex Court in ***K. Ponnama*** (supra) and ***Hukmi Chand*** (supra) were not applicable. It was observed that, in the case of acquittal followed by reinstatement, Rule 7.5 was to be applied and as per the said rule, the Petitioner would be entitled to full salary and allowances for the period of suspension and dismissal, on acquittal.

13. With regard to the scope and applicability of the said verdict, we are not at all impressed with the submissions made by the learned counsel for the Appellant. The law declared by the Apex Court in ***K. Ponnamma*** (supra) and ***Hukmi Chand*** (supra) case has been held as not applicable with reference to the specific rules applicable to the State of Haryana and further

holding that Rule 7.5 was to prevail over Rule 7.3; the former being a Special Rule.

14. As far as the service of the Appellant is concerned, absolutely no distinction is sought to be made with reference to any Rules applicable in the State of Chhattisgarh. As per the relevant service rules, when an employee who is put on suspension because of the disciplinary proceedings or registration of a criminal case and detention in judicial custody is reinstated in service, it is obligatory for the authorities concerned to pass an order with regard to the pay and allowances to be paid during the period of suspension and also as to the way in which the period of suspension is to be treated. The said rule - Rule 14 of the Chhattisgarh Panchayat Service (Discipline & Appeal) Rules 1999 reads as follows:

"14. Reinstatement.- When a member of the Panchayat Service who has been dismissed, removed or suspended from service is reinstated, the authority passing the order of reinstatement shall make an order as to:-

(a) the pay and allowances which shall be paid to him for the period of his suspension; and

(b) whether or not the said period shall be treated as a period spent duly;

in accordance with the relevant rules applicable to him."

It is very much clear from the above rule that once an employee is ordered to be reinstated, pursuant to acquittal in a criminal case or on culmination of the disciplinary proceedings, a conscious decision has to be taken by the competent authority as to how the period of suspension is to be treated and also as to the payment of the monetary benefits. This clearly casts a 'discretion' on the Competent Authority and it depends upon the various facts and circumstances; which is virtually to the effect that the payment is not automatic.

15. As mentioned already, there is no case for the Appellant that the proceedings were launched against him because of any act of *mala fides* on the part of the respondents; whereas the arrest and detention was only

because of the Appellant's deeds/misdeeds, which was the subject matter of a criminal case registered at the instance of his wife, in connection with some matrimonial dispute. That apart, Annexure P/3 judgment does not declare that the Appellant has been exonerated from all the blame, so as to be treated as an 'honourable acquittal'; but has only spared him, for the reason that the prosecution could not prove the charges 'beyond reasonable doubt'. Applying the very same logic and reasoning as given by the learned Judges of the Punjab and Haryana High Court in the decision cited (supra), the said verdict interpreting Rule 7.3 and 7.5 of the Punjab Civil Services Rules prevailing in that State is not applicable to the instant case in Chhattisgarh, where the rule position is different.

16. There is yet another reason why we are not inclined to accept the said ruling cited by the Appellant for the aspects noted below. Paragraph 7 of the said judgment extracting Rule 7.3 and 7.5 is reproduced for easy reference:

"7. At this stage, we deem it necessary to advert to Rule 7.3 of the Punjab Civil Services Rules as applicable to Haryana State (for short "the Rules"). Sub-rules (1) and (2) of Rule 7.3 of the Rules reads as under: "

7.3 (1) When a Government employee, who has been dismissed, removed, compulsorily retired or suspended, is reinstated, or would have been reinstated but for his retirement on superannuation the authority competent to order the reinstatement shall consider and make a specific order :-

(a) regarding the pay and allowances to be paid to the Government employee for the period of his absence from duty, occasioned by suspension and/or dismissal, removal or compulsory retirement ending with his reinstatement on or the date of his retirement on superannuation as the case may be, and

(b) whether or not the said period be treated as a period spent on duty.

(2) Whether the authority mentioned in sub-rule (1) is of opinion that the Government employee has been fully exonerated or, in the case of suspension, that it was wholly unjustified, the Government employee shall be given the full pay and allowances to which he would have been entitled, had he not been dismissed, removed, compulsorily retired or suspended, as the case may be."

Rule 7.5 of the Rules also assumes importance. In this

connection, reference can well be made to Rule 7.5 of the Rules which deals with suspension during pendency of criminal proceedings and effect thereafter. It reads as under :-

"7.5 An employee of Government against whom proceeding have been taken either for his arrest for debt or on a criminal charge or who is detained under any law providing for preventive detention should be considered as under suspension for any period during which he is detained in custody or is undergoing imprisonment, and not allowed to draw any pay and allowances (other than any subsistence allowance that may be granted in accordance with the principle laid down in rule 7.2) for such period until the final termination of the proceedings taken against him or until he is released from detention and allowed to rejoin duty, as the case may be. An adjustment of his allowance for such periods should thereafter be made according to the circumstances of the case, the full amount being given only in the event of the officer being acquitted of blame or (if the proceedings taken against him were for his arrest for debt), of its being proved that the officer's liability arose from circumstances beyond his control or the detention being held by the competent authority to be unjustified."

It is abundantly clear that Rule 7.3 of the Rules is the general rule, while in case a person is acquitted, it is specific Rule 7.5 of the Rules that would be attracted. The law is well settled that special Rule will always taken precedence over the general rule and consequently it must follow that under Rule 7.5 of the Rules, referred to above, the petitioner was entitled to the full back wages because, as mentioned above, the earlier decisions referred to above have little application in the present case."

Rule 7.3(i) of the said rules is somewhat similar to Rule 14 of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 applicable in this State, as to the duty of the Competent Authority to consider and make a specific order pursuant to the reinstatement of a dismissed/ removed/ compulsory retired/ suspended employee; (a) regarding pay and allowances to be paid to the Government employee for the period of his absence from duty; and (b) whether or not the said period be treated as a period spent on duty. Under sub-rule (2) of Rule 7.3 of the Punjab and Haryana Service Rules, full pay and allowance is stated as permissible to be given only if the Government employee has been fully exonerated or if the suspension was wholly unjustified.

17. Rule 7.5 of the Punjab and Haryana Service Rules; according to this Court, only deals with the course to be pursued as to how the period of arrest of a Government employee (either for debt or a criminal charge) or who is detained under preventive detention laws, should be considered. The above Rule says that such period, until the final termination of the proceedings taken against him or until he is released from detention and allowed to join duties, as the case may be, should be considered as under suspension. It further says that adjustment of his allowances for such period (which did not allow him to draw any pay or allowances other than subsistence allowance payable in terms of Rule 7.2) should be made according to the circumstances of the case; which by itself is a pointer to the 'discretion' vested with the authorities concerned. The Rule runs further, to point out that the full amount can be given only in the event of the officer being acquitted of blame or if the proceeding taken were for arrest in connection with the debt, of its being proved that the officer's liability arose from circumstances beyond his control, or when the detention (preventive detention) being held by the competent authority to be unjustified. All the above circumstances give an indication to suggest that the Government employee is cleared of the blame (something like "honourable acquittal") and mere acquittal from the criminal case is not enough, since the expression used in the Rule is 'being acquitted of the blame' and not 'being acquitted of the charge'.
18. It is relevant to note that the acquittal in a criminal case, whether it be a case involving trial by the Magistrate or by the Court of Sessions (dealt with under Section 248 or 235 of the CrPC respectively) is from the 'charge'. The charge is separately dealt with under Chapter XVII. Section 211 of the CrPC deals with the contents of the charge. Rule 7.5 of the above Punjab and Haryana Service Rules does not say that full amount of salary and allowances be given in the event of the officer being acquitted of the "charges"; but it consciously uses the word on being "acquitted of blame".

The term "blame" is having wider connotation, which possibly is to mean that no stigma shall remain there; in view of the distinction between 'acquittal giving benefit of doubt/because of the failure of the prosecution to prove the charge' and an 'honourable acquittal'-holding that the accused was never involved in the offence alleged/charged or that it was an attempt of malicious prosecution. We find it difficult to persuade ourselves to concur with the view taken by the learned Judges of the Punjab & Haryana High Court with regard to the interpretation given to the relevant Rules as dealt with in paragraph 7 of the judgment (cited supra) and also as to the distinction sought to be made with reference to the law declared by the Apex Court as dealt with in paragraphs 5 and 6 therein. The possible distinction between 'acquittal of the charge' (under Section 248 / 235 of the CrPC) and the 'acquittal of the blame' as used in Rule 7.5 of the Punjab and Haryana CSR Rules was not highlighted before the learned Judges by the parties concerned. In the said circumstances, we find it difficult to accept the proposition in the said judgment that once the employee is acquitted, he would be entitled to full salary and allowances for the period he was kept out of service. We respectfully disagree with the reasoning given in the said verdict and formulate our views independently.

19. It is relevant to note that as per Rule 4(2)(b) of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999, a member of the Panchayat Service shall be deemed to have been placed under suspension by an order of appointing authority, with effect from the date of his detention if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours. The suspension of the Appellant ordered by the 4th Respondent pursuant to the admitted detention of more than 48 hours as aforesaid, was pursuant to the mandatory rule as above and not because of any act attributable to the Respondents and as such, it does not involve any circumstance to hold that the suspension was wholly unjustified.

20. The verdict passed by the Apex Court in ***K. Ponnammma*** (supra) was not followed by the Division Bench of the Punjab & Haryana High Court in ***Hukam Singh*** (supra) observing that the order passed by the departmental authority in the said case was with reference to Rule 56 of the Kerala Service Rules, which virtually enabled the Government/Department to exercise the "discretion", making it mandatory to pass an order at the time of reinstatement, w.r.t the pay and allowances to be paid to the officer for the period of his absence from duty including the period of suspension and whether or not the said period shall be treated as a period spent on duty, whereas, in the State of Haryana, though Rule 7.3 of the Punjab Civil Services Rules was *pari materia* to Rule 56 of the Kerala Service Rules, the more pertinent rule to be applied was Rule 7.5 of the Punjab Civil Services Rules; which according to the learned Judges made it obligatory for payment of the full salary and allowances, once acquittal by the Criminal Court was ordered. (We have respectfully disagreed with the reasoning given by the learned Judges of the Punjab & Haryana High Court in the previous paragraph).
21. In the instant case, the course of action to be pursued with regard to the pay and allowances on reinstatement of the appellant is to be in terms of **Rule 14** of the Rules, 1999 (extracted already) which clearly confers a 'discretion' on the Competent Authority. In the case of other employees of the State of Chhattisgarh, similar circumstance is specifically dealt under Rule 54(1) of the Chhattisgarh Fundamental Rules, as extracted below:

"F.R. 54. Pay and allowances on re-instatement– (1) When a Government servant, who has been dismissed, removed or compulsorily retired, is re-instated as a result of appeal or review or would have been so re-instated [but for his retirement on superannuation, while under suspension or not], the authority competent to order re-instatement, shall consider and make a specific order-

(a) regarding the pay and allowances to be paid to the Government servant for the period of his

absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty."

The above rules are almost similar to Rule 56(1) of the Kerala Service Rules dealt with by the Apex Court in **K. Ponnammma** (supra), as extracted below:

"Rule 56 of the Rules provides thus:

"(1) When an officer who has been dismissed, removed or compulsorily retired including an officer who has been retired under Rules 60-A, is reinstated as a result of appeal or review or would have been so reinstated, but for his retirement on superannuation while under suspension or not, the authority competent to order reinstatement shall consider and make a specific order :

(a) regarding the pay and allowances to be paid to the officer for the period of his absence from duty including the period of suspension preceding his dismissal, removal, or compulsory retirement, as the case may be.

(b) Whether or not the said period shall be treated as a period spent on duty."

Insofar as the law stands declared by the Apex Court that Rule 56 of the Kerala Service Rules in **K. Ponnammma** (supra) holding that payment of 'full salary and allowance is not automatic' and that it is for the authorities to pass appropriate orders in this regard taking note of the facts and circumstances, it is equally applicable in respect of the position in the State of Chhattisgarh as well, in view of the similar Rule position as discussed above.

22. With reference to almost similar circumstances and the rule position prevailing in various Establishments/States, similar verdicts have been passed by the Apex Court at different points of time, to the effect that acquittal in a criminal case will not make the employee concerned to claim full salary and allowance during the period of suspension, as a matter of right, once he is acquitted in the criminal case. It has been held in **The Management of Reserve Bank of India, New Delhi v. Bhopal Singh**

Panchal; {AIR 1994 SC 552} that the 'discretion' in this regard is vested exclusively upon the employer and the said power is unassailable. In the words of the Apex Court, the person who got involved in the criminal case for his own deeds and misdeeds and later came to be acquitted, getting the benefit of doubt (instead of 'honourable acquittal'), who has not rendered any work, cannot claim full salary and allowances as a matter of right. It has been further observed that, it will be against the principle of 'no work, no pay' and positively inequitable to those who have to work and earn their pay.

23. The legal position was reiterated by the Apex Court again in **Krishnakant Raghunath Bibhavnekar v. State of Maharashtra & Others**; {(1997) 3 SCC 636} holding that grant of consequential benefits with full backwages cannot be as a matter of course and that it would be deleterious to the maintenance of discipline, if a person suspended on valid consideration is given full backwages as a matter of course on his acquittal. The difference between an 'honourable acquittal' and 'technical acquittal' (when it is because of inadequate evidence/the witness of the prosecution turned hostile or some of the witnesses have not been examined etc.) has been explained by the Apex Court in **Inspector General of Police v. S. Samuthiram**; {(2013) 3 SCC 598}; holding that reinstatement cannot be claimed as a matter of right, merely on acquittal under all circumstances and that it would depend upon the circumstances whether the acquittal is a 'technical acquittal' or an 'honourable acquittal'. The principles in this regard were reiterated in the subsequent decision in **State of West Bengal & Others v. Sankar Ghosh**; {(2014) 3 SCC 610}. The Apex Court further made it clear in **Rajasthan State Road Transport Corporation, Jaipur v. Phool Chand (Dead) through Legal Representatives**; {(2018) 18 SCC 299} that a workman has no right to claim backwages from his employer as of right, only because the Court has set aside his dismissal order in his favour and directed his reinstatement in service.

24. In the above circumstances, we are of the considered view that the verdict passed by the Division Bench of the Punjab and Haryana High Court cited by the learned counsel for the Appellant is not applicable to the case in hand and that the issue herein is covered by the ruling rendered by the Apex Court in ***K. Ponnamma (supra)***, in view of the similar rules applicable in the State of Chhattisgarh.
25. In view of our findings as above, since there is no insinuation against the authorities of the State in any manner (with reference to the involvement of the Appellant in a crime registered against him in connection with the matrimonial dispute raised by the estranged wife) and further since the suspension of the Petitioner was pursuant to the arrest and detention in judicial custody in terms of Rule 4(2) a of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 and further since he admittedly had not worked during the said period, payment of the full salary and allowances during the said period of suspension merely on his acquittal of the criminal charge (as the prosecution had failed to establish the offence) during that period will amount to 'payment of premium to the wrong-doer' i.e. complementing him without extracting any work from him. As held by us in ***Rakesh Kumar Rathore*** (supra), the tax payers' money cannot be sought to be siphoned out to extend unlawful gains to the appellant, insofar as the action against the Appellant was pursuant to his own deeds or misdeeds and more so, when he does not have a case that there was any attempt on the part of the State/Respondents in falsely implicating him in the crime. In the said facts and circumstances, we hold that the appeal is devoid of any merit as well. Accordingly the appeal stands dismissed, both on merit and on the delay.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE