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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
WRIT PETITION NO. 3409 OF 2018**

**Smt. Meena Shrikant Divekar
Versus
The District Collector & Ors.**

**.. Petitioner
.. Respondents**

Mr. S. A. Rajeshirke for petitioner.

Mr. B. V. Samant, AGP for respondent nos.1 to 3.

**CORAM: S. V. GANGAPURWALA, ACTING CJ. &
SANDEEP V. MARNE, J.**

DATE: APRIL 26, 2023

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P.C.:

- 1.** The petitioner challenges the order of the Tribunal. The only grievance is about suspension period and the period between dismissal and reinstatement not treated as a duty period.
- 2.** We have heard the learned advocate for the petitioner and the learned AGP.
- 3.** The only grievance is about treating the suspension period and the period between the date of dismissal and reinstatement as duty period.
- 4.** The petitioner was employed as a Clerk through special category of nominee of freedom fighter. The criminal case was also filed against the petitioner. The departmental inquiry was also proceeded with. The petitioner is acquitted in the criminal case.
- 5.** In the departmental inquiry, the disciplinary authority terminated the petitioner. The appeal was dismissed. The petitioner preferred revision. The revision was allowed by the revisional authority directing reinstatement in service.

- 6.** The period from dismissal to reinstatement certainly can be considered as the petitioner has been reinstated in service.
- 7.** The period of suspension is from 11th January, 2000 to 7th December, 2000 and 13th February, 2003 to 15th June, 2010. The petitioner has been paid subsistence allowance for the said period. There is no dispute in respect of the same.
- 8.** The learned advocate for the petitioner submits that the petitioner would not claim salary for the period from 11th January, 2000 to 7th December, 2000 and 13th February, 2003 to 15th June, 2010 i.e. the period the petitioner was under suspension. The learned advocate for the petitioner, on instructions, further submits that he would not claim arrears of salary for a period from 8th December, 2000 to 12th February, 2003 and 16th June, 2010 to 15th January, 2012, during which period the petitioner was dismissed, i.e., the period between dismissal and reinstatement. We accept the said statements.
- 9.** The petitioner rendered service since 1992 till the petitioner is superannuated in 2017.
- 10.** In light of the fact that the petitioner has been exonerated by the revisional authority, we direct that the period of suspension and the period between dismissal and reinstatement shall be counted for the purpose of pension.
- 11.** It is made clear that, as undertaken by the petitioner, the petitioner will not be entitled for any salary for the said period.
- 12.** With these observations, writ petition is disposed of. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)