

December 9, 2025
Sl. No.25
Court No.1
s.biswas

WPCT 173 of 2025

Sanjib Roychowdhury
vs.
The Union of India and others

Mr. Sanajit Kumar Ghosh

... for the BSNL

Per, Sujoy Paul, A.C.J.

1. None appears for the petitioner even in the pass over round. Mr. Sanajit Kumar Ghosh, learned counsel for the respondent, heard on admission.
2. The applicant before the Tribunal filed O.A. 350/1669/2023 which was decided on 01.05.2025. This order is the subject matter of challenged in this petition filed under Article 226/227 of the Constitution of India.
3. Before the Tribunal, the applicant prayed for following reliefs:

“a) To issue direction upon the respondent to give provisional benefits to the applicant forthwith.

b) To quash cancel set aside the impugned order dated 18.04.2023 forthwith.

c) To issue further direction upon the respondent to give pension according to government rules forthwith.

d) Any other order/orders as deem fit and proper.

e) To produce Connected Department Record at the time of Hearing.”

4. A plain reading of order of Tribunal makes it clear that the applicant therein was punished by the department. By the said order, the committee confirmed the order of disciplinary authority and

decided to reject the appeal of the applicant therein.

5. The order of Tribunal further shows that the applicant therein was convicted for committing offence under Section 7 read with Section 13(2) of the Prevention of Corruption Act, 1988 and sentenced to suffer rigorous imprisonment for 4 years and to pay a fine of Rs.5000/- in Special (CBI) Case No.15 of 2010, by judgment and order dated 21.04.2018.
6. The applicant therein assailed the order in criminal appeal before this court along with an application filed under Section 389 of the Cr.P.C. for suspension of sentence. The said application was registered as CRAN 1552 of 2018. The High Court suspended the sentence by the order reproduced by the Tribunal in the impugned order.
7. Since the sentence was suspended, the petition was filed to set aside the order dated 18.04.2023. In our considered opinion, the contention of applicant therein was misconceived. Merely because the sentence is suspended, it cannot be presumed that conviction has been stayed. As per criminal jurisprudence, the 'conviction' and 'sentence' are two different facets. The Supreme Court in **2001 (7) SCC 231** and **2007 (1) SCC 673** clearly held that suspension of sentence does

not mean that the conviction has vanished in thin air and obliterated.

8. In the case of **B.R. Kapur vs. State of T.N and Another, 2001 (7) SCC 231** the Hon'ble Supreme Court observed as follows:

"It is not within the power of the appellate court to suspend the sentence; it can only suspend the execution of the sentence pending the disposal of appeal. The suspension of the execution of the sentence does not alter or affect the fact that the offender has been convicted of a grave offence and has attracted the sentence of imprisonment of not less than two years."
(Emphasis Supplied)

9. In the case of **Ravikant S. Patil vs. Sarvabhuma S. Bagali, 2007 (1) SCC 673** the Hon'ble Supreme Court opined:

"Where the execution of the sentence is stayed, the conviction continues to operate. But where the conviction itself is stayed, the effect is that the conviction will not be operative from the date of stay. An order of stay, of course, does not render the conviction non-existent, but only non-operative."
(Emphasis Supplied)

10. Suspension of sentence only means that the sentence for the time being is suspended awaiting the decision of appeal or till further orders. Thus, Tribunal was justified in holding that the O.A. is premature. The suspension of sentence did not give any cause of action to the applicant therein against the impugned order dated 18.04.2023. There exists no error in the impugned order

which warrants interference by this court.

Admission is declined. Petition is **dismissed**.

(Sujoy Paul, A.C.J.)

(Partha Sarathi Sen, J.)