



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 5901 OF 2024

PETITIONER :

Shyam Bahadur Singh,
Aged 59 years, working in the post of
Sub Inspector, RPF, Ajni Reserve,
Nagpur, R/o RPF Barrack, Room No.3
Vyas, Ajni, Nagpur – 440003.
M. No. 7028520138,
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V E R S U S

RESPONDENTS :

1. Principle Chief Security Commissioner,
Central Railway, 3rd Floor, Parcel Office
Building, RPF Headquarter,
Mumbai CSTM – 400001.
2. Director General, Railway Protection
Force, Rail Mantralaya, Railway Board,
Rail Bhawan, New Delhi – 110 001.
3. Divisional Security Commissioner,
DRM Office, Central Railway,
Nagpur – 440001.

Shri B. Lahiri, Advocate for petitioner.

Shri C. J. Dhumne, Advocate for respondent Nos.1 to 3.

**CORAM: SMT. M. S. JAWALKAR AND
PRAVIN S. PATIL, JJ.**

DATE : 04/08/2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

1. **Rule.** Rule made returnable forthwith. By consent of
learned Counsel for the parties, the matter is taken up for final
disposal.

2. By this petition, the petitioner is challenging the order dated 29/11/2023 passed by the Principal Chief Security Commissioner, Mumbai i.e. respondent No.1, whereby by applying the principle of “No Work No Pay” the period from the date of dismissal till the date of reinstatement of the petitioner was treated as “dies non” and held that the petitioner will not be entitled for any salary or any other monetary benefits for this period.

3. In brief, the submission of the petitioner is that he was charge-sheeted on 20/09/2016 by the respondents by alleging that by accepting the bribe, petitioner has tarnished the image of the force. However, in departmental enquiry, it has been established that neither the petitioner has accepted the bribe nor any recovery has been made from him. Accordingly, the Enquiry Officer did not find the petitioner guilty for the charges levelled against him. He was therefore, exonerated from all the charges levelled against him.

4. After the receipt of Enquiry Report, the disciplinary authority in concurrence of finding of Enquiry Officer exonerated petitioner from all charges. The suspension vide order dated 10/04/2014 i.e. w.e.f. 09/04/2014 to 19/05/2015 is treated as spent on duty. The period of outstation permission availed by him,

during suspension period, will be treated as leave accordingly. In respect of pending criminal proceeding, it was only observed that the case is registered against the petitioner and same is yet not finalized. As such, there is no finding that subject to decision of the criminal proceeding, the order of exoneration came to be passed in the matter.

5. It is pointed out by the petitioner that the learned Additional Sessions Judge, Jalgaon by its Judgment and order dated 05/07/2018, convicted the petitioner for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988 and sentenced to suffer Rigorous Imprisonment for three years along with a fine of Rs.1,000/-. In pursuance of the same, the respondent No.1 by order dated 25/07/2018 by exercising the powers under Rule 161(1) read with Rule 162.2 of the RPF Rules, 1987 dismissed the services of the petitioner with immediate effect.

6. Against the order of conviction, petitioner has preferred Criminal Appeal No.481/2018 before this Court. This Court by its Judgment dated 02/12/2022 set aside the conviction imposed by learned Additional Sessions Judge, Jalgaon in Special C.B.I. (A.C.B.) Case No.9/2014. The Judgment of this Court was carried before Hon'ble Supreme Court of India but same was upheld by

the Hon'ble Supreme Court of India in Special Leave Petition (Criminal) Diary No.30833/2023.

7. As a consequence of acquittal of petitioner from the criminal offence, the respondent No.1 by order dated 29/11/2023 reinstated the petitioner in service. However, acquittal of petitioner by this Court by giving him benefit of doubt and by relying on the principle of "No Work No Pay", the period from the date of dismissal till the date of reinstatement was treated as "dies non" and thereby, recorded that petitioner will not be entitled for salary and other monetary benefits for this period. This order is under challenge by way of present petition.

8. The learned counsel appearing for the respondents vehemently opposed the petition by stating that as this Court acquitted the petitioner by giving benefit of doubt and not on merits, the impugned order cannot be held illegal. Hence, considering this aspect, the petition being devoid of merits, liable to be dismissed.

9. We have heard learned counsel for the parties and considered the above referred Rules framed by the department.

10. The petitioner has taken us to the Departmental and Appeal Rules bearing RBE No.127/1985, the clause (2) of the said Rules is reproduced as under :-

“2. It has been represented to the Railway Board that in case of acquittal by a Court of Law there is no such thing as clear or honourable acquittal and that even if the acquittal is on benefit of doubt the entire period from the date of suspension proceeding the date of dismissal/removal/compulsory retirement to the date of resumption should be treated as duty with full pay and allowances.”

So also relied upon the Fundamental Rule 54. The Clause 2 of the said Rules is reproduced as under :-

“(2) Where the authority competent to order reinstatement is of opinion that the Government servant who had been dismissed, removed or compulsorily retired has been fully exonerated, the Government servant shall, subject to the provisions of sub-rule (6), be paid the full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be:

Provided that where such authority is of opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly attributable to the Government servant it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Government servant shall, subject to the provisions of sub-rule (7), be paid for the period of such delay, only such amount (not being the whole) of such pay and allowances as it may determine.”

11. It is also pointed out by the petitioner that in his representation dated 08/12/2023, particularly in Para No.16 the benefit of abovesaid Rule has been granted almost 13 employees of the Department and recently to one Shri Sujit Kumar Pandey whose order is also enclosed with this petition.

12. That from the Rule reproduced above, it is very much clear that in case of acquittal by a Court of Law, it is made clear that even the acquittal is on the benefit of doubt, the entire period from the date of suspension / dismissal till the date of reinstatement is required to be considered as continuity of service. Furthermore, the Fundamental Rules (FR-54), also speaks about the fact that where the Authority Competent to order reinstatement is of the opinion that Government Servant who had been dismissed or removed or has been exonerated, such servant shall be paid full pay and allowances to which he would have been entitled, had he not been removed/dismissed or compulsorily retired or suspended prior to such dismissal/removal or compulsorily retirement.

13. As such, in the present matter, the rules framed by the respondent are crystal clear and there is no ambiguity of any kind coupled with the fact that the respondent – department has already granted the same benefit to more than 13 employees of the same department, but no reason is recorded as to why the petitioner is made exception to the said Rule.

14. Hence, we are of the considered opinion that the impugned order is contrary to the Rules framed by the respondent – department and hence, same is liable to be quashed and set aside. Accordingly, we pass the following order :-

ORDER

- i] The writ petition is allowed.
- ii] The order dated 29/11/2023 passed by the respondent No.1 is hereby quashed and set aside to the extent of denying the back-wages from period 26/07/2018 to 01/12/2023.
- iii] It is made clear that the petitioner is entitled for all monetary benefits for the period 26/07/2018 to 01/12/2023 with consequential benefits and accordingly, respondents are directed to release the same within a period of three months from the date of this order.
- iv] Rule is made absolute in above terms with no order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M. S. JAWALKAR, J.]