



2025:DHC:11850-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 23.12.2025***

+ W.P.(C) 6820/2023 & CM APPL. 26629/2023

UNION OF INDIA & ANR.

.....Petitioners

Through: Ms.Pratima N. Lakra, CGSC,
Mr.Shailendra Kr. Mishra,
Mr.Chanakya Kene, Advs.

versus

B. K. DUTTA

.....Respondent

Through: Mr.Manjeet Singh Reen, Adv.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE MADHU JAIN****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed by the petitioners challenging the Order dated 29.09.2022 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No.427/2015, titled *Sh. B.K. Dutta v. Union of India, through the General Manager, Northern Railway & Anr.*, whereby the learned Tribunal allowed the said O.A. filed by the respondent herein and directed that the full benefits of pay and allowances for the period during which the respondent remained under suspension be released to the respondent on an actual basis, in accordance with the re-fixation of his salary which had already been carried out.

BRIEF FACTS:

2. To give a brief background of the facts in which the present



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petition arises, the respondent, while working as Special Ticket Examiner at New Delhi Railway Station, pursuant to the registration of a Regular Case by the Central Bureau of Investigation (CBI), being RC No.10/1987/CBI/ACB/Delhi dated 30.01.1987 under Sections 409/467/471/477A of the Indian Penal Code, 1860 read with Sections 5 (2) r/w 5(1) (c) and (d) of the Prevention of Corruption Act, 1947, was placed under suspension with effect from 14.07.1987. The said suspension was ultimately revoked only on 10.06.1994.

3. Insofar as the said RC is concerned, *vide* Order dated 19.04.2001, the file of the criminal prosecution, being CC No. 79/2008 [CC No. 04/2007 (old)], was consigned to the Record Room on account of non-supply of the documents. Thereafter, the CBI filed an application dated 15.12.2005 seeking discharge of the respondent on the ground that the documents mentioned at Serial Nos. 2,3, and 8 of the list of relied-upon documents appended with the Charge Sheet had been destroyed due to white ants and termites. The learned Special Judge-IV (PC Act) CBI, Tis Hazari Courts, Delhi, *vide* Order dated 15.09.2011, acquitted the respondent of all the charges.

4. On 18.07.1994, that is, almost immediately after the revocation of the first suspension order, the respondent was again placed under suspension due to the registration of another FIR, being FIR No.156/1994, alleging kidnapping and extortion. The respondent was acquitted in the said case on 02.07.1999; however, the suspension was revoked by the petitioners only on 25.02.2001.

5. The respondent filed O.A. No.852/1995, which was disposed of by the learned Tribunal *vide* Order dated 31.10.1996, directing as



under:

“In the facts and circumstances of the case and having regard to the provisions of the Railway Board RBE No. 211/98, the Respondents are directed to consider the case of the applicant for ad hoc promotion and pass a reasoned and speaking order within two months from the date of receipt of a copy of this order.”

6. In compliance with the said order, the respondent was promoted to the post of Head Travelling Ticket Examiner, on an *ad hoc* basis, *vide* Order dated 12.07.2001 passed by the petitioners.

7. Aggrieved thereby, the respondent filed yet another O.A., being O.A. No.2227/2001, seeking regularisation as Head Travelling Ticket Examiner and promotion as JTI from the date on which his juniors were appointed to the said post. The said O.A. was disposed of by the learned Tribunal *vide* Order dated 10.04.2002, with the following direction:

“6. In the facts and circumstances of the case and treating this matter as a special case, the respondents are now directed to consider the case of the applicant from ad hoc promotion to the post of JTI from the date applicant's junior was promoted by passing a reasoned and speaking order within two months from the date of service of this order. Such promotion if accorded, shall be subject to reconsideration on the basis of the result of the CBI case on its revival in Court.”

8. The petitioners thereafter passed an Order dated 09.07.2012, treating the period of suspension of the respondent, that is, from 14.07.1987 to 10.06.1994, 18.07.1994 to 15.09.1999, and 16.09.1999 to 23.02.2001, as regularized and treated as on duty. Consequent upon the above order, *vide* another Order dated 21.08.2012, the respondent



was treated as having been promoted to the post of Head TTE with effect from 24.07.1993; JTI with effect from 24.08.1996; and CTI with effect from 01.11.2003, however, only on a *proforma* basis. Insofar as the post of CTI is concerned, it was stated that the actual benefits would accrue to the respondent only upon him assuming independent duties as CTI in the said Grade.

9. Aggrieved thereby, the respondent thereafter filed O.A. No.427/2015, wherein the learned Tribunal passed the Impugned Order, directing that the respondent ought to have been granted actual benefits in respect of his promotions.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONERS:

10. The learned counsel for the petitioners, placing reliance on the judgments of the Supreme Court in *Corp. Mithlesh Kumar alias Mithlesh Singh v. Union of India & Ors.*, (2020)12 SCC 423; and in *Raj Narain v. Union of India & Ors.*, (2019) 5 SCC 809, submits that since the respondent was placed under suspension on account of criminal cases registered against him, his subsequent acquittal in those cases does not, by itself, entitle the respondent to full back wages. She further submitted that the principle of “No work, No pay” is applicable, and that the respondent is entitled only to notional fixation of pay, which has already been duly granted by the petitioners in the present case.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENT:

11. On the other hand, the learned counsel for the respondent



submits that, in terms of Rule 228 of the Indian Railway Establishment Manual (hereinafter referred to as 'IREM'), full back wages can be denied only where an employee has lost promotion on account of an administrative error. In the present case, the respondent was denied promotion on account of having been placed under suspension, therefore, Rule 228 of the IREM cannot be invoked.

12. He further submits that in terms of the Office Memorandum dated 14.09.1992 issued by the Department of Personnel & Training (DoP&T), the respondent's case ought to have been considered under the sealed cover procedure, and upon his exoneration in the criminal cases, the promotion ought to have taken effect from the date on which his juniors were promoted, with actual benefits of such promotion being granted to him. In support of his plea, he also placed reliance on the judgment of the learned Single Judge of this Court in ***D.B. Madan v. Punjab National Bank through its Chief Manager***, 2023:DHC:3844, which was upheld by the Division Bench of this Court in ***Punjab National Bank v. D.B.Madan***, 2024:DHC:3698-DB.

ANALYSIS AND FINDINGS:

13. We have considered the submissions made by the learned counsels for the parties.

14. From the above narration of facts, it is evident that the respondent was placed under suspension on 14.07.1987 on account of his involvement in a CBI case registered as RC No. 10/1987/CBI/ACB/Delhi dated 30.01.1987. The respondent was acquitted in the said case only *vide* Order dated 15.09.2011, however,



his suspension had already been withdrawn *vide* Order dated 10.06.1994. The respondent was again placed under suspension on 18.07.1994 due to the registration of another FIR against him, in which the respondent was acquitted on 02.07.1999; however, his suspension continued until 23.02.2001. The basis for the continuation of his suspension after his acquittal is not discernible from the record, as upon his acquittal, he ought to have been reinstated in service.

15. Be that as it may, in compliance with the orders passed by the learned Tribunal, to which reference has been made hereinabove, the respondent was eventually granted promotions with effect from the dates on which his juniors were promoted to the post of Head TTE, JTI, and CTI, *albeit* only on a *proforma* basis. Therefore, the issue of sealed cover procedure becomes irrelevant. The sole issue that falls for our consideration is whether the direction of the learned Tribunal to grant actual benefits to the respondent for the aforesaid periods of suspension is justified.

16. In ***Raj Narain*** (supra), the Supreme Court, while considering a similar situation where an employee had been placed under suspension due to his involvement in a criminal case, examined its earlier judgments in ***Ranchhodji Chaturji Thakore v. Superintendent Engineer, Gujarat Electricity Board, Himmatnagar (Gujarat) & Anr.***, (1996) 11 SCC 603 and ***Union of India & Ors. v. Jaipal Singh***, (2004) 1 SCC 121, and held as under:

“5. This Court in Ranchhodji Chaturji Thakore [Ranchhodji Chaturji Thakore v. Gujarat Electricity Board, (1996) 11 SCC 603 : 1997 SCC (L&S) 491] considered the case of an employee who



sought back wages for the period he was kept out of duty during the pendency of a criminal case for his involvement in an offence under Section 302 IPC. The claim of the petitioner therein was that he was entitled to full wages on his acquittal by the criminal court. This Court rejected the said submission by holding that the question of payment of back wages would arise only in case of termination of service, pursuant to findings recorded in a departmental enquiry. In the event of the dismissal order being set aside by the Court, the delinquent employee would be entitled to claim back wages as he was unlawfully kept away from duty by the employer. This Court was of the opinion that an employee against whom criminal proceedings are initiated would stand on a different footing in comparison to an employee facing a departmental enquiry. The employee involved in a crime has disabled himself from rendering his services on account of his incarceration in jail. Subsequent acquittal by an appellate court would not entitle him to claim back wages.

6. *The decision of Ranchhodji Chaturji Thakore [Ranchhodji Chaturji Thakore v. Gujarat Electricity Board, (1996) 11 SCC 603 : 1997 SCC (L&S) 491] was followed by this Court in Union of India v. Jaipal Singh [Union of India v. Jaipal Singh, (2004) 1 SCC 121 : 2004 SCC (L&S) 12] to refuse back wages to an employee who was initially convicted for an offence under Section 302 read with Section 34 IPC and later acquitted by the High Court in a criminal appeal. While refusing to grant relief to the petitioner therein, this Court held that subsequent acquittal would not entitle an employee to seek back wages. However, this Court was of the opinion that if the prosecution is launched at the behest of the department and the employee is acquitted, different considerations may arise. The learned counsel for the appellant endeavoured*



to distinguish the prosecution launched by the police for involvement of an employee in a criminal case and the criminal proceedings initiated at the behest of the employer. The observation made in the judgment in Union of India v. Jaipal Singh[Union of India v. Jaipal Singh, (2004) 1 SCC 121 : 2004 SCC (L&S) 12] has to be understood in a manner in which the department would become liable for back wages in the event of a finding that the initiation of the criminal proceedings was mala fide or with vexatious intent. In all other cases, we do not see any difference between initiation of the criminal proceedings by the department vis-à-vis a criminal case lodged by the police. For example, if an employee is involved in embezzlement of funds or is found indulging in demand and acceptance of illegal gratification, the employer cannot be mulcted with full back wages on the acquittal of the person by a criminal court, unless it is found that the prosecution is malicious.

7. The point that remains to be considered is whether the appellant is entitled to payment of full wages between 1979 and 1987. The appellant was placed under suspension on 23-10-1979 and his suspension was revoked on 21-10-1987. An interesting development took place during the interregnum by which the disciplinary proceedings were dropped on 21-3-1983. It is clear from the record that the appellant was the one who was seeking postponement of the departmental enquiry in view of the pendency of criminal case. The order of suspension was in contemplation of disciplinary proceedings. By virtue of the disciplinary proceedings being dropped, the appellant becomes entitled to claim full salary for the period from the date of his suspension till the date of closure of the departmental enquiry. Thereafter, the respondents took four years to reinstate him by revoking his suspension. The order of suspension dated 23-10-1979 came to an end on 21-3-1983 which is the date on which disciplinary proceedings



were dropped. The appellant ought to have been reinstated immediately thereafter unless a fresh order was passed, placing him under suspension during the pendency of the criminal trial which did not happen. Ultimately, the appellant was reinstated by an order dated 21-10-1987 by revocation of the order of suspension. Though, technically, the learned Additional Solicitor General is right in submitting that the impugned judgment does not even refer to the IA, we are not inclined to remit the matter to the High Court at this stage for fresh consideration of this point. We hold that the appellant is entitled for full wages from 23-10-1979 to 21-10-1987 after adjustment of the amounts already paid towards subsistence allowance.

8. For the reasons mentioned above, we approve the judgment of the High Court by holding that the appellant shall be entitled for back wages only from the date of acquittal on 31-8-2001, till the date of his reinstatement on 20-1-2003. Further, the appellant shall be entitled to full salary from 23-10-1979 to 21-10-1987.”

17. The same was reiterated by the Supreme Court in **Corp. Mithlesh Kumar** (supra), wherein the Court once again held that mere acquittal from a criminal case, does not automatically entitle an employee to consequential benefits for the period during which he remained under suspension.

18. In **D.B. Madan** (supra), the learned Single Judge of this Court placed reliance on the Punjab National Bank Officer Employees’ (Discipline and Appeal) Regulations, 1977, to distinguish the judgment of the Supreme Court in **Jaipal Singh** (supra), and held that the regulations applicable therein specifically provided that where an employee is placed under suspension and is thereafter fully



exonerated, he shall be granted full pay for the intervening period. The said judgment, having proceeded on the basis of peculiar and specific service regulations, has no application to the facts of the present case.

19. We may herein note that in the appeal against the said judgment, the only issue raised was whether the acquittal of the employee therein could be termed as “honourable”. The Court held that once an acquittal is recorded after a full-fledged trial, the same must be treated as an “honourable” acquittal, and the consequential benefits must follow. The said judgment, therefore, is also inapplicable to the facts of the present case. In the present case, it is not the contention of the petitioners that the respondent has been denied back wages on the ground that his acquittal was not ‘honourable’.

20. Applying the above principle to the facts of the present case, it is evident that the respondent remained under suspension from 14.07.1987 to 23.02.2001 on account of his involvement in criminal cases, which were not at the behest of the petitioners; one having been registered by the CBI and the other by the local police. Although the respondent was acquitted in both the cases, in terms of the judgments of the Supreme Court in **Raj Narain** (supra) and **Corp. Mithilesh Kumar** (supra), such an acquittal does not automatically entitle the respondent to full back wages for the period during which he remained under suspension and did not perform any work. The orders of suspension were neither challenged before us nor before the learned Tribunal. The principles of “No work, No pay” was, therefore, applicable.



21. Consequently, the direction of the learned Tribunal to grant full back wages for the entire period of suspension, cannot be sustained.

22. At the same time, as noted hereinabove, while the respondent was acquitted in the second criminal case on 02.07.1999, while his suspension in the first criminal case had already been withdrawn on 10.06.1994, we find no reason for continuation of his suspension between 03.07.1999 and 23.02.2001, when suspension was finally revoked. The petitioners have been unable to explain why the respondent was not reinstated in service during the period from 03.07.1999 to 23.02.2001, despite the withdrawal of his suspension order.

23. Applying the ratio of the judgment of the Supreme Court in **Raj Narain** (supra), the respondent would, therefore, be entitled to full back wages for the period of unauthorized suspension, that is, from 03.07.1999 to 23.02.2001, while only notional benefits for the period between 14.07.1987 and 02.07.1999.

24. The amount, if any, due to the respondent on basis of the above finding of this Court, shall be released to him within a period of eight weeks from today, along with interest at the rate of 6% per annum.

25. With the above modification to the Impugned Order passed by the learned Tribunal, the present petition is disposed of. The pending application also stands disposed of accordingly.

26. There shall be no order as to costs.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 23, 2025/Arya/DG