IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 4892 of 2024

1. Dikesh Kumar, aged about 42 years, S/o Dileshwar Sahu, R/o Village Jilinga, P.O. Pandra, P.S. Kuru & District Lohardaga.

2. Akhilesh Kumar Thakur, aged about 32 years, S/o Ashok Thakur, R/o Village Bharadi, P.O. Pandara, P.S. Lohardaga & District Lohardaga.

3. Rudranath Pandey, aged about 33 years, S/o Shyamacharan Pandey, R/o Village Babhangama, P.O. Tinpahad, P.S. Tinpahad & District Sahebganj.

4. Sujeet Kisku, aged about 34 years, S/o Lukhiram Kisku, R/o Village Pusaro, P.O. Guhiajori, P.S. Jama & District Dumka.

5. Vijay Kumar Tanti, aged about 34 years, S/o Doman Tauti, R/o Village Chora Panchgarh, P.O. Sahebganj, P.S. Jirawabadi & District Sahebganj.

6.Vinod Kumar Yadav, aged about 36 years, S/o Gopal Yadav, R/o Village-Bagni P.O. Samayamatha, P.S. Sareyahat & District Dumka.

7. Ravikant Choubey, aged about 32 years, S/o Shishir Choubey, R/o Village Sakrigali New Tikkar, P.O. Sakrigali, P.S. Sahebganj & District Sahebganj.

8 Kuldip Kumar, aged about 31 years, S/o Bhanshuor Ram, R/o Village Malsering, P.O. Malsering, P.S. Pithoriya & District Ranchi.

9. Ranjit Kumar, aged about 43 years, S/o Narayan Sah, R/o Village-Sirha, P.O. & P.S.-Untari Road & District-Palamu.

10. Sanjeev Kumar Bhagat, aged about 32 years, S/o Uday Kumar Bhagat, R/o Village Meharma, P.O. Meharma, P.S. Meharma & District Godda

11. Rajiv Ranjan Trivedi, aged about 31 years, S/o Vilesh Trivedi, R/o Village-Worma, P.O. Bajitpur, P.S. Meherma, & District Godda.

12. Ramesh Sahu, aged about 31 years, S/o Late Raghunandan Sahu, R/o Village Salgi, P.O. Salgi, P.S. Kuru & District Lohardaga.

13. Narayan Mahali, aged about 33 years, S/o Karma Mahali, R/o Village Palmi, P.O. Semra, P.S. Bhandara & District Lohardaga.

14. Kamlesh Ojha, aged about 30 years, S/o Om Prakash Ojha, R/o Village Purani Sahebganj, P.O., P.S. & District - Sahebganj.

15. Nanda Oraon, aged about 32 years, S/o Chanda Oraon, R/o Village Chipra, P.O. Chipra, P.S. Ratu & District Ranchi.

16. Manmohan Gorai, aged about 38 years, S/o Hara Ram Gorai, R/o Village Bada Chengdu, P.O. Bada Chengdu, P.S. Silly & District Ranchi.

17. Anand Kumar Tiwari, aged about 31 years, S/o Late Satyendra Tiwari, R/o Village Kajha Kala, P.O. Dumariya, P.S. Garhwa & District Garhwa

18. Amit Kumar Mahato, aged about 34 years, S/o Arjun Mahto, R/o

Village Bithudih, P.O. Baredih, P.S. Tamar & District-Ranchi.

19. Ravi Kumar, aged about 32 years, S/o Ajay Thakur, R/o Village Barapachgar, P.O. Sahibganj, P.S. Jirwabari & District Sahibganj.

20. Rajesh Kumar Munda, aged about 32 years, S/o Jiten Munda, R/o Village Haratu, P.O. Tatisilway, P.S. Tatisilway & District Ranchi.

21. Rakesh Mahato, aged about 31 years, S/o Rath Raj Mahto, R/o Village Sniguliyan, P.O. Rangamati, P.S. Chandankiyari & District Bokaro.

22. Roshan Kumar, aged about 49 years, S/o Mahadev Ram, R/o Village-Jiling. P.O.-Pandra, P.S.-Kuru & District-Lohardaga.

23. Shreekant Kumar Das, aged about 30 years, S/o Shravan Prasad Das, R/o Village Karanpura, P.O. Karanpura, P.S. Taljhari & District Sahebganj.

24. Chandrashekhar Singh, aged about 36 years, S/o Ram Naresh Singh, R/o Village Duba, P.O. Chando, P.S. Chainpur & District Palamu.

25. Parasnath Oraon, aged about 30 years, S/o Nandu Pahan, R/o Village Kayal Jamira, P.O. Gageya, P.S. Senha & District Lohardaga.

26. Munil Bhagat, aged about 30 years, S/o Late Ratia Oraon, R/o Village Podha, P.O. Ruki, P.S. Ghaghra & District Gumla.

27. Upendar Mahali, aged about 42 years, S/o Makru Mahli, R/o Village Hesal, P.O. Kurse, P.S. Lohardaga & District-Lohardaga.

28. Naushad Ansari, aged about 32 years, S/o Salimuddin Ansari, R/o Village-Nayasarai, P.O. & P.S.-Nagri & District-Ranchi

29. Rajkumar, aged about 31 years, S/o Ugan Saw, R/o Village Banha Khapriyawan, P.O. Nawada, P.S. Katkamdag & District-Hazaribagh.

30. Umakant Jha, aged about 30 years, S/o Pramod Kumar Jha, R/o Village Khojwa, P.O. Chilra, P.S. Saraiyahat & District-Dumka.

31. Ritesh Chauhan, aged about 30 years, S/o Mahadev Chauhan, R/o Village Bajitpur, P.O. Bajitpur, P.S. Meharma & District-Godda.

32. Mukesh Kumar Paswan, aged about 37 years, S/o Dasrath Ram, R/o Village Pandey Pura, P.O. Murmakala, P.S-Pandu & District-Palamau.

33. Gautam Kumar, aged about 33 years, S/o Uchit Mandal, R/o Village Karsop, P.O., P.S. Sambhuganj & District-Banka.

34. Arun Kumar Das, aged about 35 years, S/o Adalat Das, R/o Village Mohlidih, P.O. Pabia, P.S. Narayanpur & District-Jamtara,

35. Baha Lakra, aged about 48 years, S/o Mangra Lakra, R/o Village Raja Ulatu, P.O. Raja Ulatu, P.S. Namkum & District-Ranchi.

36. Jitan Kumar Mandal, aged about 31 years, S/o Garbhu Mandal, R/o Village Champa, P.O. Kasba, P.S. Mehrama & District - Godda.

37. Raghubir Kumar, aged about 32 years, S/o Pacham Ram, R/o Village

Cherabar, P.O. Taleya Bhabhandi, P.S. Palamau & District- Palamau

38. Sujeet Khalkho, aged about 41 years, S/o Nathuwa Khalkho, R/o Village Lalgutwa, P.O. Laigutwa P.S. Nagri & District - Ranchi.

39. Tanweer Alam, aged about 32 years, S/o Sher Mohammad, R/o Village Pali, P.O. Pali, P.S. Ratu & District-Ranchi.

40. Sunil Gope, aged about 38 years, S/o Syamlal Gope, R/o Village Nawada (Banha), P.O. Nawada (Banha), P.S. Katkamdag & District-Hazaribagh.

41. Rahul Oraon, aged about 31 years, S/o Basudev Oraon, R/o Village Chapri, P.O. Chapri, P.S. Thakur Gangti & District-Godda.

42. Shankar Paswan, aged about 34 years, S/o Vijay Ram, R/o Village Banahi, P.O. Chaukri, P.S. Haidar Nagar & District-Palamau

43. Munna Kumar, aged about 32 years, S/o Karmdev Paswan, R/o Village Etwa, P.O. & P.S. Haidar Nagar & District-Palamau.

44. Raj Kishor Mahli, aged about 47 years, S/o Jageshwar Mahli, R/o Village Baraudi, P.O. Baraudi, P.S. Thakurgoan & District Ranchi.

45. Krishna Rajak, aged about 36 years, S/o Mahendra Rajak Dhobi, R/o Village Mohalla, P.O. Doranda, P.S. Doranda & District Ranchi.

46. Gautam Kumar Mandal, aged about 30 years, S/o Jayhind Mandal, R/o Village Bajitpur, P.O. Bajitpur P.S. Godda & District Ranchi.

... Petitioner(s)

Versus

1. The State of Jharkhand

2. The Principal Secretary, Department of Home, Prison & Disaster Management, Government of Jharkhand, officiating at Project Building, H.E.C Town Ship, P.O., P.S Dhurwa & District-Ranchi.

3. The Joint Secretary, Department of Home, Prison & Disaster Management, Government of Jharkhand, Officiating at Project Building, H.E.C Town Ship, P.O., P.S Dhurwa & District-Ranchi.

4. The Director General of Police, Jharkhand, officiating at Police Headquarters, Dhurwa, P.O., P.S Dhurwa & District - Ranchi.

5. The Additional Director General of Police, Jharkhand Armed Police, officiating at Police Headquarters, Dhurwa, P.O., P.S Dhurwa & District-Ranchi.

6. The Deputy Inspector General of Police (Personnel), Jharkhand, officiating at Police Headquarters, Dhurwa, P.O., P.S Dhurwa & District - Ranchi. **... Respondent(s)**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner(s) : Mr. Chanchal Jain, Advocate
For the State : Mr. Divyam, AC to SC-IV

JUDGMENT

C. A.V On 16/09/2026 **Pronounced On 25/09/2026**

The instant writ application has been filed by the petitioners for the following reliefs:

> *"1.i. For showing cause the respondents as to how & on the basis of what authority/jurisdiction they could sit in appeal over the order dated 08.11.2019 (Annexure-4) passed in W.P.(S) No. 3976/2016 & analogous cases (which has attained finality) wherein the Hon'ble High Court has specifically directed the respondents to reinstate all the petitioners on their original posts with all consequential benefits but the respondent State has willfully & blatantly defied & disobeyed the order dated 08.11.2019 passed by the Hon'ble Court and did not extend the consequential benefits to the petitioners.*
> *ii. For a writ of certiorari quashing the notification no.351 dated 22.01.2021 (Annexure-5) issued by the State Government wherein while setting aside the termination order contained in memo no. 3646 dated 23.06.2016 expressed that the period between the date of termination to the date of issuance of notification i.e. 23.06.2016 to 22.01.2021 be considered as "No Work No Pay", which is out & out illegal, arbitrary and non-est in the eyes of law in view of the order dated 08.11.2019 passed in W.P.(S) No. 3976/2016 & analogous cases and also in view of catena of judgments passed by the Hon'ble Apex Court & Jharkhand High Court.*
> *iii. For a writ of mandamus directing the respondents to grant annual increments to the petitioners w.e.f. the date of termination till the date of notification i.e. 23.06.2016 to 22.01.2021 as because the denial of these increments has resulted in the petitioners receiving lesser salary/pay compared to their juniors who were appointed subsequently and also the non-grant of increments has a cumulative effect on future increments, which itself is a punishment & amounts to double jeopardy and is arbitrary, illegal & violative of Article 14 of the Constitution of India.*
> *iv. For a writ of mandamus commanding upon the respondents to grant all consequential benefits including full back wages, increments etc. accrued during the interregnum i.e. 23.06.2016 to 22.01.2021 along with interest @ 12% per annum as because due to the wrongful action & non-compliance of the order 08.11.2019 passed in W.P.(S) No. 3976/2016 & analogous cases in its true letter & spirit, the petitioners cannot be made to suffer.*
>
> *AND/OR*
>
> *For any other appropriate relief or reliefs for which the Petitioner is found to be entitled in the fact and circumstances of this case."*

2. Briefly stated, an Advertisement No. 1/2015 was floated for filling up the vacancies on the post of Barber, Water Carrier, Cook,

Sweeper and Washer Man in Jharkhand Armed Police/Indian Reserves Battalion/State Industrial Security Force. The petitioners participated in the selection process and were declared to be successful. The respondent issued Notification No. 3646 dated 23.06.2016 whereby the services of all the appointees appointed pursuant to the Advertisement No. 1/2015 were terminated by respondents with immediate effect on the ground of irregularities committed by few persons in the entire selection process.

The aforesaid Notification No. 3646 dated 23.06.2016 was challenged by the petitioners in *W.P.(S) No. 3976/2016* and other analogous cases. The writ petition was allowed on 08.11.2019 with a specific direction to *"reinstate all the petitioners with consequential benefits"* and the said order attained finality; as the said order was never challenged by the respondents.

In compliance of the order dated 08.11.2019 passed in *W.P.(S) No. 3976/2016* and analogous cases, the respondent-State issued Notification No. 351 dated 22.01.2021; whereby it revoked the impugned Notification No. 3646 dated 23.06.2016 and granted continuity of service for the period from 23.06.2016 to 22.01.2021. However, while reinstating the petitioners; the respondents imposed a condition of *"No Work, No Pay"* for the aforesaid period.

Challenging the Notification No. 351 dated 22.01.2021, the petitioners have preferred the present writ petition with a prayer of grant of annual increments and all consequential benefits including full back wages, increments etc. accrued during the interregnum.

3. Learned counsel for the petitioners submits that this Court, vide its order dated 08.11.2019 passed in *W.P.(S) No. 3976/2016* and analogous cases, categorically directed the respondents to reinstate the petitioners with all consequential benefits. The said order has attained finality, having not been challenged by the respondents before any higher forum. In such circumstances, the respondents were duty-bound to

implement the order in its true letter and spirit and had no authority in law to dilute, modify, or reinterpret the same.

Ld. Counsel strenuously contended that the issuance of Notification No. 351 dated 22.01.2021, whereby the condition of *"No Work, No Pay"* has been imposed, is wholly arbitrary and amounts to sitting in appeal over a binding judicial pronouncement, which is impermissible and constitutes gross judicial indiscipline.

4. Ld. Counsel contended that the petitioners have already suffered the consequences of illegal termination during the period from 23.06.2016 to 22.01.2021. The further denial of back wages and increments for the same period amounts to subjecting the petitioners to double jeopardy, inasmuch as they are being penalized twice for no fault attributable to them. If the back wages and consequential monetary benefits are denied, the respondents would derive an undue and unjust advantage from their own illegal action, while the petitioners would continue to suffer irreparable financial loss. Such a result is wholly contrary to the principles of equity, fairness, and justice, and cannot be sustained in a constitutional framework governed by the rule of law.

In support of his contention, Ld. Counsel for the petitioners relies upon the following judgments:

(i) *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya & Ors.*[1]*,*

(ii) *T. Sudhakar vs. Union of India & Ors.*[2]

(ii) *Commissioner, Karnataka Housing Board v. C. Muddaiah*[3]*,*

(iv) *Rajendra Prasad Sharma & Ors. v. State of Jharkhand*[4]*,*

5. Ld. Counsel representing the respondents relying upon the Counter Affidavit has supported the stand of the State and contended that

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[1] *(2013) 10 SCC 324*
[2] *W. P.(S)No. 3880 of 2019, High Court of Jharkhand*
[3] *(2007) 7 SCC 689*
[4] *2007 SCC OnLine Jhar 432*

the Petitioners did not work for the relevant period as they were terminated from their services.

6. Having heard Ld. Counsel for the rival parties and upon perusal of relevant documents on records; it is evident that this Court in earlier round of litigation vide its order dated 08.11.2019 passed in *W.P.(S) No. 3976/2016* and analogous cases, categorically directed the respondents to reinstate the petitioners with all consequential benefits. The writ court held as such: -*"The State is directed to reinstate all the petitioners on their original posts with all consequential benefits ...."*

7. The said order has attained finality, having not been challenged by the respondents before any higher forum. As such, *"No Work, No Pay"* principle in the present case *prima-facia* appears to be wholly misconceived and legally unsustainable. The petitioners were prevented from discharging their duties solely on account of the termination of their services by the respondents. It is a well-settled principle of law that where an employee is kept out of service due to the wrongful and illegal acts of the employer; the doctrine of *"No Work, No Pay"* has no application. The respondents cannot be permitted to take advantage of their own wrong and thereby deprive the petitioners of their legitimate dues.

8. There exists a well-recognized distinction in law between a mere order of reinstatement and reinstatement with consequential benefits. In the present case, the direction of this Court was explicit, unambiguous, and left no discretion with the respondents. The expression *"consequential benefits"* necessarily includes continuity of service, increments, and back wages, particularly in the absence of any finding or plea that the petitioners were gainfully employed during the intervening period from 23.06.2016 to 22.01.2021. The petitioners have specifically asserted that they remained unemployed and survived on family support and savings, which has not been rebutted by the respondents. Therefore, denial of back wages is not only contrary to the express direction of this Court but also

amounts to willful disobedience of its order.

9. In earlier round of litigation, the Court did not give any liberty to the respondents to decide as to whether the petitioners are entitled for back wages or not and therefore denial of back wages under Rule 97 of the Jharkhand Service Code is bad in the eyes of law. It is reiterated that there was a positive and straight forward direction upon the respondents to reinstate the petitioner with all consequential benefits and therefore the petitioners cannot be denied the consequential benefits viz. back wages, allowances, increment etc. particularly when no appeal was filed by the respondents against the order dated 08.11.2019.

10. The respondents are employer and are in a commanding position and have upper hand than the petitioners, therefore, the petitioners under duress were constrained to accept the reinstatement without consequential benefits and were simultaneously pursuing the Contempt Case (Civil) No. 641/2022 for grant of consequential benefits.

11. The denial of increments further aggravates the illegality, as it is not a one-time financial loss but has a cascading and continuing adverse impact on the entire service career of the petitioners. It affects future increments, pay fixation, pay revisions, pensionary benefits, and other retiral dues. Such denial operates as a continuing civil consequence and effectively imposes a penalty without any disciplinary proceeding or finding of misconduct, which is impermissible in law.

If the back wages and consequential monetary benefits are denied, the respondents would derive an undue and unjust advantage from their own illegal action, while the petitioners would continue to suffer irreparable financial loss. Such a result is wholly contrary to the principles of equity, fairness, and justice, and cannot be sustained in a constitutional framework governed by the rule of law.

12. Moreover, at the cost of repetition, this Court in earlier round of litigation categorically directed the respondents to reinstate the petitioners with all consequential benefits.

13. The respondents have relied upon Rule 97 of the Jharkhand Service Code, 2001. In the instant case, Rule 97 will not be applicable; that too without any order as incorporated in the Rule-97 itself. For brevity, the same is extracted hereinbelow:-

> *"97. (1) When a Government servant who has been dismissed, removed, or suspended, reinstated, the authority competent to order the reinstatement shall consider and make specific order-*
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> *(a) regarding the pay and allowances to be paid to the Government servant for the period of his absence from duty, and*
>
> *(b) whether or not the said period shall be treated as a period spent on duty.*
>
> *(2) Where the authority mentioned in sub-rule (1), is of opinion that the Government servant has been fully exonerated, or in the case of suspension, that it was wholly unjustified, the Government servant shall be given full pay and allowance to which he would have been entitled has he not been dismissed, removed or suspended, as the case may be.*
>
> *(3) In other cases, the Government servant shall be given such proportion of such pay and allowances as such competent authority may prescribe:*
>
> *Provided that the payment of allowances under Clause (2) or Clause (3) shall be subject to all other conditions under which such allowance are admissible.*
>
> *(4) In a case falling under Clause (2) the period of absence from duty shall be treated as a period spent on duty for all purposes.*
>
> *(5) In a case falling under clause the period of absence from duty shall not be treated as a period spent on duty, unless such competent authority specifically directs that it shall be so treated for any specified purpose:*
>
> *Provided that if the Government servant so desires such authority may direct that the period of absence from duty shall be converted into leave of any kind due and admissible to the Government Servant."*

14. In the instant case there is no such finding as to why the petitioners are not entitled for back wages and other consequential benefits. At this stage, it would be profitable to refer the following judgments:

15. In **"*T. Sudhakar*"** (supra), this Court has held as under:

> *"3. The petitioner had earlier moved before this Court in CWJC No.3733 of 1998(R) against the order of dismissal dated 17.10.1997 which was allowed in favour of the petitioner by holding as under:*
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> *"11. In view of the above discussion, I am of the opinion that on the basis of the materials on record, no reasonable person would have concluded and recorded a finding that the petitioner was actively involved in the incident. There may have been strong suspicion against the petitioner however, such suspicion is not supported by any substantive evidence on record and therefore, this cannot take place of legal proof. In view of the aforesaid, I find that the order of penalty dated 17.10.1997 as well as appellate order dated 24.03.1998 are liable to be quashed and are hereby quashed. However, if materials have been brought on record which would establish the negligence of the petitioner in not detecting the forged entry at serial no. 16 and 17 dated 05.03.1997 which allegedly was made on 26.05.1997, an appropriate minor punishment may be inflicted upon the petitioner and*

therefore, the matter is remitted back to the disciplinary authority for a fresh consideration. ***Needless to say the petitioner would be entitled for all consequential benefits in accordance with law."***

Emphasis Supplied

10. At this stage, this Court again refers to the ground wherein there was a specific assertion that all consequential benefit shall not be paid on the ground of "no work no pay" but the same was withdrawn by the Union of India and furthermore, even in the order of punishment there is no whisper of no work no pay/non-payment of backwages; thus, there is no scope now for the respondents to raise a grievance that minor punishment was given, as such, he is no entitled for backwages."

16. In ***"Deepali Gundu Surwase"*** (supra), the Hon'ble Supreme Court has held as under:

"22. The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. The injury suffered by a person, who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer-employee relationship, the latter's source of income gets dried up. Not only the employee concerned, but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi-judicial body or court that the action taken by the employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. If the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. The denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the employee concerned and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments.

38. The propositions which can be culled out from the aforementioned judgments are:

38.1. In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

38.2. The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

38.3. Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averment about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

38.4. The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to

the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.

38.5. The cases in which the competent court or tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimising the employee or workman, then the court or tribunal concerned will be fully justified in directing payment of full back wages. In such cases, the superior courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc. merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The courts must always keep in view that in the cases of wrongful/illegal termination of service, the wrongdoer is the employer and the sufferer is the employee/workman and there is no justification to give a premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

38.6. In a number of cases, the superior courts have interfered with the award of the primary adjudicatory authority on the premise that finalisation of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer i.e. the employee or workman, who can ill-afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works (P) Ltd. v. Employees [Hindustan Tin Works (P) Ltd. v. Employees, (1979) 2 SCC 80 : 1979 SCC (L&S) 53] .

38.7. The observation made in J.K. Synthetics Ltd. v. K.P. Agrawal [(2007) 2 SCC 433 : (2007) 1 SCC (L&S) 651] that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three-Judge Benches [Hindustan Tin Works (P) Ltd. v. Employees,[(1979) 2 SCC 80 : 1979 SCC (L&S) 53], [Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court, (1980) 4 SCC 443 : 1981 SCC (L&S) 16] referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman."

17. Further, in ***"Commissioner, Karnataka Housing Board"*** (supra), the Hon'ble Supreme Court has held as under:

"12. The said order was challenged by the Board but intra-court appeal as also special leave petition came to be dismissed by the Division Bench of the High Court and by this Court respectively. The said order thus became final and binding on the parties. It was, thereafter, not open to the Board not to pay consequential benefits on the so-called ground that such payment was not envisaged by law. Once an order is passed by a competent court, it has to be implemented. Dismissal of contempt petitions was totally irrelevant. The learned Single Judge was, therefore, not justified in dismissing the petition and the Division Bench was right in setting aside the said order. The present appeal, therefore, has no substance and deserves to be dismissed.

15. It is not in dispute that the Board challenged the said decision by filing intra-court appeal but the appeal was dismissed by the Division Bench. Even special leave petition was dismissed by this Court and the order passed by the learned Single Judge had become final and binding between the parties. It was, therefore, obligatory on the Board to implement the directions issued by the learned Single Judge in the writ petition, to reassign seniority of the writ petitioner by placing him over Respondents 2 to 34 in the petition and also to extend "consequential benefits".

26. As observed in S.R. Bhagwat [(1995) 6 SCC 16 : 1995 SCC (L&S) 1334 : (1995) 31 ATC 452] when a decision has been rendered by a competent court, the law provides a remedy to an aggrieved party. If the appellant Board thought that the writ petitioner was not entitled to financial benefits as contended before us now and he could be

granted such benefits only on "notional" basis, it could have challenged the said direction and ought to have obtained an appropriate order from an appropriate court. In the case on hand, the directions issued by the learned Single Judge were challenged by the Board, but intra-court appeal as well as special leave petition came to be dismissed. The direction, thus remained and in the teeth of such direction, it is not open to the appellant Board not to comply with it by contending that it would not grant consequential benefits as no such direction could be issued in view of the 1973 Act."

18. In ***"Rajendra Prasad Sharma"*** (supra), the Hon'ble Supreme Court has held as under:

"17. The questions that primarily arise for consideration are what is the meant by "consequential monetary benefits" and whether there has been willful disobedience of the Court's direction as contained in the Order dated 23rd August, 2002. Consequential monetary benefits would include the increments and all wages/allowances revised from time to time except such allowances or perks which are related to the actual performance of duty.

18. In (2003) 2 SCC 212 [APSRTC v. S. Narsagoud] the Apex Court has clearly observed that consequential benefits will include the increments. As observed above, Opposite Parties have filed their show cause dated 13th September, 2000, pursuant to the Court's direction dated 22nd August, 2006 and submitted their answer to the questions posed by the Court as under:

Question I: Whether pay of other workmen was revised since 1988?

Answer: The wages of the workmen not party to the present dispute and who had actually been working after the retrenchment of the 101 workmen were revised from time to time since 1988 on account of:

(a) increments due to each and anyone of them

(b) promotions granted to a few of them from time to time on account of efficiency or increase in responsibilities

(c) variations in Variable Dearness Allowance

(d) settlement with the Unions from time to time

Question II: Whether the Workmen-Petitioners have been paid arrears on the basis of revised scale of pay, if such revision of pay has been made?

Answer: The workmen have not been paid arrears on the basis of the revised scale of pay. The workmen were paid their arrears back-wages upto the month of July, 2006 on the basis of the last wage drawn. The reasons for the same have been stated at great length hereinabove and in the several petitions including the supplementary petition showing cause and in the next main paragraph of this counter-affidavit.

Question III: Whether they have been allowed admissible allowances such as D.A. etc. alongwith the wages to which they were entitled under law?

Answer: The workmen have been paid closure compensation and ex gratia payments: They were paid dearness allowances as per their entitlement in 1988. I say that the Management's interpretation of the Hon'ble High Court Order dated 23rd August, 2002 for the reasons aforesaid and also stated hereinbelow, is that these were the only sums and payable at only the said rates to which 30 Petitioners are entitled."

19. Having regard to the aforesaid discussions and the settled proposition of law coupled with the fact that this Court in earlier round of litigation vide its order dated 08.11.2019 passed in *W.P.(S) No. 3976/2016* and analogous cases, categorically directed the respondents to reinstate the petitioners with all consequential benefits and the said order has attained finality, having not been challenged by the respondents before any higher forum, as such, *"No Work, No Pay"* principle in the present case is wholly misconceived and legally unsustainable.

20. Accordingly, the impugned order being notification no.351 dated 22.01.2021 (Annexure-5) issued by the State Government wherein while setting aside the termination order contained in memo no. 3646 dated 23.06.2016 expressed that the period between the date of termination to the date of issuance of notification of revocation i.e. from 23.06.2016 to 22.01.2021 be considered as "No Work, No Pay" is partially quashed and modified to the extent that the petitioners are entitled for all consequential benefits including back wages, increments etc.

21. Accordingly, the Respondents are directed to issue necessary orders to the aforesaid effect and extend the monetary benefits as early as possible, but in any case, not beyond a period of 8 weeks from the date of receipt/production of copy of this order.

22. As a result, the instant writ petition stands allowed in the aforesaid terms.

(Deepak Roshan, J.)

Jharkhand High Court, Ranchi
Dated: 25/09/2026
Amit

A.F.R

Uploaded 29/09/2026