



2026:DHC:2550-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 24.03.2026***

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W.P.(C) 12427/2022**SURAMPAL SINGH**

.....Petitioner

Through: Mr. Rakesh Kumar, Mr. Ujjwal
K. Priyadarshi, Mr. Rishit
Kumar, Mr. Harshit Sharma
and Mr. Aashish Kumar, Advs.

versus

STATE NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Yeeshu Jain, ASC along
with Ms. Jyoti Tyagi, Ms.
Vishruti Pandey and Mr. Sachin
Garg, Advs. for R – 1 to 4.

CORAM:**HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE AMIT MAHAJAN****J U D G M E N T (O R A L)****AMIT MAHAJAN, J.:**

1. Through the present petition, the Petitioner has challenged the correctness of the order dated 11.07.2022 (hereafter '**impugned order**'), passed in OA No. 1725/2022, whereby the learned Central Administrative Tribunal rejected the Petitioner's prayer for grant of back wages.

2. Briefly stated, the Petitioner was employed as a Trained Graduate Teacher in the Directorate of Education of GNCTD. By way of order dated 18.01.2011, the Petitioner was placed under suspension from 24.11.2010 pursuant to his arrest in FIR No. 35/2008, registered at Police Station Gulawati Buland Sahar, Uttar Pradesh, for offences under Sections 147, 148, 149, 307, 504 and 506 of the Indian Penal



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Code, 1860. The Petitioner was convicted by the learned Sessions Court on 18.06.2013 and sentenced to undergo rigorous imprisonment for a period of one year and six months and to pay a fine of ₹1000/- for the offences under Sections 307/149 of the IPC. The Petitioner was further awarded rigorous imprisonment for a period of one year for the offence under Section 506 of the IPC. As a consequence of his conviction, the competent authority imposed a penalty of dismissal from service on the Petitioner.

3. The Petitioner filed an appeal challenging his conviction before the Hon'ble High Court of Allahabad, which was allowed by way of judgment dated 25.02.2019. Thereafter, the Petitioner submitted an application dated 18.02.2019 with a prayer to revoke the order of dismissal and to extend the benefit of salary and pension as he had attained the age of superannuation on 30.04.2018. Due to delay in adjudication of his representation, the Petitioner preferred OA bearing no. 45/2020, which was disposed of with a direction to pass a speaking order. By way of order dated 07.07.2021, the Petitioner's dismissal was set aside and he was reinstated in service by the Competent Authority. It was found that the Petitioner was entitled to subsistence allowance for the period of suspension, however, he was not entitled to back wages. By way of the said order, the Petitioner was also asked to submit a representation regarding entitlement of pay and admissible allowances for the period of suspension and dismissal, which was to be treated as period not spent on duty.

4. Following the same, the Petitioner preferred a detailed representation in this respect on 05.08.2021. Being aggrieved by the



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same not being considered, the Petitioner filed OA No. 290/2022, which was disposed of with directions to pass a speaking order. In compliance thereof, by way of order dated 24.03.2022, the Competent Authority ordered as under:

- “i) For the period of suspension w.e.f. 24.11.2010 to 20.05.2014, the said Shri Suram Pal Singh shall be entitled for pay and admissible allowance equal to subsistence allowance, subject to adjustment of the amount of subsistence allowance already paid to him for the period of suspension.*
- ii) The said Shri Suram Pal Singh shall not be entitled for any back-wages/ arrears of the pay for the period of dismissal w.e.f. 21.05.2014 to 30.04.2018 i.e. date on which he attained age of superannuation.*
- iii) The period from 24.11.2010 to 30.04.2018 in respect of the said Shri Suram Pal Singh shall be counted for pensionary purposes only.”*

5. The said order was upheld by the learned Tribunal by way of the impugned order.

6. It is the case of the Petitioner that once the order of his dismissal from service is set aside, it is not proper to hold that the Petitioner was not on duty. It is submitted that the Petitioner was falsely implicated on the basis of enmity. It is submitted that the disciplinary action against the Petitioner was based solely on the basis of the criminal proceeding against him and he ought not to be penalised after he has been acquitted on merits. It is submitted that the Department had no substantial reason to suspend the Petitioner or to continue his suspension during the period when the case was under investigation. During the course of arguments, reliance has been placed on the judgments in ***Deepali Gundu Surwase v. Kranti Junior***



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Adhyapal Mahavidyalaya and Ors.: (2013) 10 SCC 324 and Raj Narain v. Union of India : (2019) 5 SCC 809.

7. On the other hand, it is argued on behalf of the Respondents that the impugned order suffers from no infirmity and the judgments relied upon by the Petitioner do not help his case.

8. We have heard the counsel and perused the record.

9. The limited grievance agitated by the Petitioner is in relation to his entitlement to back wages for the entire duration of his suspension and dismissal, that is, from 24.11.2010 (that is, date from when the Petitioner was suspended) to 30.04.2018 (that is, date on which the Petitioner attained the age of superannuation).

10. Although the Petitioner has not been granted back wages for the said period, pursuant to his acquittal, the Competent Authority has revoked the dismissal order and ordered that the period from 24.11.2010 to 30.04.2018 shall be counted for pensionary purposes.

11. A bare perusal of the order dated 24.03.2022 as well as the impugned order indicate that the Competent Authority as well as the learned Tribunal have duly considered the issue of back wages, and they were compelled to deny the same on being weighed by the decision of the Hon'ble Apex Court in ***Ranchhodji Chaturji Thakore v. Gujrat Electricity Board, Himmatnagar : (1996) 11 SCC 603***. In that matter, the Petitioner therein had been dismissed from his post of Junior Clerk as he had been convicted in case for the offence of murder. Subsequently, the Petitioner was acquitted and he was reinstated into the service with continuity of service, but he was



denied back wages. The following observations were made by the Hon'ble Apex Court in such circumstances in relation to back wages:

*“3. The reinstatement of the petitioner into the service has already been ordered by the High Court. The only question is whether he is entitled to back wages. It was his conduct of involving himself in the crime that was taken into account for his not being in service of the respondent. Consequent upon his acquittal, he is entitled to reinstatement for the reason that his service was terminated on the basis of the conviction by operation of proviso to the statutory rules applicable to the situation. **The question of back wages would be considered only if the respondents have taken action by way of disciplinary proceedings and the action was found to be unsustainable in law and he was unlawfully prevented from discharging the duties.** In that context, his conduct becomes relevant. Each case requires to be considered in its own backdrop. In this case, since the petitioner had involved himself in a crime, though he was later acquitted, he had disabled himself from rendering the service on account of conviction and incarceration in jail. Under these circumstances, the petitioner is not entitled to payment of back wages. The learned Single Judge and the Division Bench have not committed any error of law warranting interference.”*

12. A similar view has been taken by the Hon'ble Apex Court in ***Union of India v. Jaipal Singh : (2004) 1 SCC 121***, wherein it was held that when a public servant is implicated in a criminal case and, upon trial, is convicted by the competent court, the department is legally bound to keep such an employee out of service. It was held that the department cannot be made liable for payment of back-wages for the period during which they could not avail the services of the employee. The relevant extract of the aforesaid judgment is reproduced herein below:

“4. On a careful consideration of the matter and the materials on record, including the judgment and orders brought to our notice, we are of the view that it is well accepted that an order rejecting a special leave petition at the threshold without detailed reasons



therefor does not constitute any declaration of law by this Court or constitute a binding precedent. Per contra, the decision relied upon by the appellant is one on merits and for reasons specifically recorded therefor it operates as a binding precedent as well. On going through the same, we are in respectful agreement with the view taken in *Ranchhodji* [(1996) 11 SCC 603 : 1997 SCC (L&S) 491] . If prosecution, which ultimately resulted in acquittal of the person concerned was at the behest of or by the department itself, perhaps different considerations may arise. **On the other hand, if as a citizen, the employee or a public servant got involved in a criminal case and if after initial conviction by the trial court, he gets acquittal on appeal subsequently, the department cannot in any manner be found fault with for having kept him out of service, since the law obliges a person convicted of an offence to be so kept out and not to be retained in service.** Consequently, the reasons given in the decision relied upon, for the appellants are not only convincing but are in consonance with reasonableness as well. **Though exception taken to that part of the order directing reinstatement cannot be sustained and the respondent has to be reinstated in service, for the reason that the earlier discharge was on account of those criminal proceedings and conviction only, the appellants are well within their rights to deny back wages to the respondent for the period he was not in service. The appellants cannot be made liable to pay for the period for which they could not avail of the services of the respondent.** The High Court, in our view, committed a grave error, in allowing back wages also, without advertting to all such relevant aspects and considerations. Consequently, the order of the High Court insofar as it directed payment of back wages is liable to be and is hereby set aside.”

(emphasis supplied)

13. Suffice to say, it is evident from the aforesaid judgments that even if the conviction is ultimately overturned, no fault can be attributed to the employer for exclusion of the employee from service since the law mandates that a person convicted of an offence be kept out of service. The present case is not one where the Respondents illegally prevented the Petitioner from discharging his duties, but rather, he was dismissed after his conviction. The record does not



indicate that the Petitioner ever endeavored to join the service during the pendency of the criminal proceedings before the Trial Court by laying a challenge to his suspension prior to his acquittal in appeal. In such circumstances, even if the Petitioner may have been falsely implicated, applying the principle of “no work no pay”, the Respondents cannot be asked to pay the Petitioner’s wages for the period for which he had admittedly not served the department.

14. As rightly appreciated by the learned Tribunal, the judgment in **Deepali Gundu Surwase v. Kranti Junior Adhyapal Mahavidyalaya and Ors.** (*supra*) is not applicable to the facts of the present case. In that case, the Petitioner therein had challenged her suspension and her case was that she was being forcibly kept out of service by the management. Therein, the suspension and termination was found to be illegal due to violation of statutory provisions as well as principles of natural justice due to which it was directed that the Petitioner be reinstated to her original post, however, the High Court ordered that no back wages were to be awarded. In such circumstances, the Hon’ble Apex Court observed that in a case of wrongful termination of service, grant of back wages is the normal rule. The present case does not relate to any *mala fide* or wrong termination on part of the Department.

15. Further, the Petitioner has relied on the judgment in **Raj Narain v. Union of India** (*supra*), where the Hon’ble Apex Court observed as under:

“The observation made in the judgment in Union of India and Others v. Jaipal Singh (supra) has to be understood in a manner



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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-a-vis a criminal case lodged by the police.'"

16. The observations made in the said case are also of no benefit to the Petitioner. In that case, it was the case of the Petitioner therein that he was entitled to back wages after being acquitted in appeal as the subject criminal proceedings, in which he was initially convicted by the Trial Court, had been initiated at the behest of the employer. Noting the endeavour of the Petitioner to distinguish proceedings launched by police and those initiated at the behest of an employer, the Hon'ble Apex Court observed that the employer would become liable for back wages if it is found that the proceedings were launched with a *mala fide* intent. Although it is stressed by the Petitioner that the criminal proceedings against him were based on false allegations, no liability or fault can be ascribed to the Respondents for dismissing him when the proceedings were admittedly not launched at their instance.

17. In view of the aforesaid discussion, this Court finds no reason to interfere with the impugned order.

18. The present petition is dismissed in the aforesaid terms.

AMIT MAHAJAN, J.

ANIL KSHETARPAL, J.

MARCH 24, 2026

Signature Not Verified

Signed By: HARMINDER
KAUR
Signing Date: 27.03.2026
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