



IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

ON THE 23rd OF JANUARY, 2026

WRIT APPEAL No. 184 of 2026

VIJAY KUMAR SHARMA

Versus

M P M K V V COM LTD AND OTHERS

Appearance:

Shri Ravi Bhargav - Advocate for Appellant.

Shri Ravi Jain – Advocate for respondent No.2 and 3.

ORDER

As per Justice Anand Singh Bahrawat:

By way of instant appeal, filed under Section 2 (1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005, challenge is made to the order dated 15.12.2025 passed in W.P.No.2397/2025; whereby, writ petition preferred by petitioner/appellant was dismissed claiming the benefit of full salary for the period from 25.1.2018 to 30.4.2021 during which he remained under suspension and praying for interest on the aforesaid amount.



2. In nut shell the facts giving to the instant appeal are that initially appellant was appointed on the post of Store Assistant in the Madhya Pradesh Vidhyut Mandal now know as Madhya Pradesh Madhya Kshetra Vidhyut Vitaran Company Ltd. (MPMKVV Com. Td) on 3.4.1982. At the relevant point of time he was working as Junior Engineer at Gwalior Division of the respondent/Company. During the service tenure, a criminal case was registered at Special Police Establishment (SPE), Gwalior against present appellant along with other co-accused persons namely Vikash Kesarwani, Ajay Nayak and Shashikan Parashar on 18.1.2018 bearing crime No.257/2016 under Section 7, 13(1) read with Section 13(2) of Prevention of Corruption Act, 1988 (PC Act) and Section 120 of I.P.C. Thereafter, he was produced before the Court of First Additional Sessions Judge/ Special Judge, Datia wherein a case was registered bearing case No. SC LOK NO.01/2018. Thereafter, as per instructions issued by the General Administration Department, Bhopal vide letter No. F-11/58/98/1-10 Bhopal appellant was placed under suspension with immediate effect vide order dated 25.1.2018 and he was attached to the City Circle, Gwalior. After recording the statement of prosecution, learned Trial Court vide judgment dated 29.7.2022 was acquitted all the accused persons along with appellant. During the pendency of the case, appellant stood retired on 30.4.2021. Thereafter, appellant submitted a representation before the respondent authority for regularization of period his suspension. Accordingly, vide order 10.2.2023 the period of suspension from 25.1.2018 to 30.4.2021 has been treated to on duty for all purposes except for pay and allowances for said period. The said order was challenged in writ petition which was dismissed by impugned order dated 15.12.2025, hence the present appeal.



3. Learned counsel for appellant submits that the suspension of appellant is totally unjustified because he was suspended on account of criminal case in which he was subsequently acquitted and the reasons, account of which he was placed under suspension, now does exist, therefore, he is entitled for full pay and allowances for the period in which he was placed under suspension. It was argued that by counsel for appellant that learned Single Judge has erred in law as well as on facts in holding that appellant is not entitled to full salary for the period of suspension, despite the fact that the appellant was acquitted in the criminal proceedings. As the appellant was falsely implicated in the crime in which he was acquitted, therefore, as per Fundamental Rule 54-B (3) he is entitled to get full pay and allowances for the intervening period.

4. Learned counsel for respondents supported the impugned order passed by learned writ Court and stated that appellant was involved in criminal case because of his own acts and Department was not instrumental in his prosecution, therefore, suspension on account of the same, cannot be said to be unjustified. Under F.R.54-B, it is for the Competent Authority to form an opinion whether the suspension of employee is justified or not and if the authority comes on conclusion that suspension is totally unjustified, then only employee is held to be entitled for pay and allowances for intervening period. In the present case, the order of suspension cannot be said as unjustified, therefore, appellant is not entitled for any pay and allowances for the period in which he was placed under suspension.

5. Heard the counsel for the parties at length and perused the record.



6. Before dealing with the rival contentions of the parties it is necessary to quote the following provisions of Rules:-

F.R.54-B. (1) When a Government servant who has been suspended is reinstated or would have been so reinstated but for his retirement on superannuation while under suspension, the authority competent to order reinstatement shall consider and make a specific order-

(a) regarding the pay and allowances to be paid to the Government servant for the period of suspension ending with reinstatement or the date of his retirement on superannuation as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty.

(2) Notwithstanding anything contained in rule 53, where a Government servant under suspension dies before the disciplinary or court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for that period to which he would have been entitled had he not been suspended, subject to adjustment in respect of subsistence allowance already paid.

(3) Where the authority competent to order reinstatement is of the opinion that the suspension was **wholly unjustified**, the Government servant shall, subject to the provisions of sub-rule (8), to be paid the full pay and allowances to which he would have been entitled, had he not been suspended:



Rule 9 of M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter referred as 'Rules 1966')

9. (1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Governor by general or special order, may place a Government servant under suspension-

(a) where a disciplinary proceeding against him is contemplated or is pending, or

(b) where a case against him in respect of any criminal offence is under investigation, inquiry of trial :

[Provided that a Government servant shall invariably be placed under suspension when a challan for a criminal offence involving corruption or other moral turpitude is filed against him :]

Provided further that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

(2) A Government servant shall be deemed to have been placed under suspension by an order of appointing authority-

(a) with effect from the date of his detention, if he is detained in custody whether on a criminal charge or otherwise for a period exceeding forty-eight hours;

(b) with effect from the date of his conviction, if, in the event of conviction for an offence, he is



sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

7. As per F.R.54-B, on reinstatement of employee on revocation of suspension if competent authority formed an opinion that the suspension was wholly unjustified, then only the employee become entitled for full pay and allowances for the period in which he was placed under suspension. For full pay and allowances for intervening period, suspension order has to be wholly unjustified in the opinion of the Competent Authority.

8. Rule 9 (1) of Rules 1966, confers discretion to the Appointing / Disciplinary/ Competent Authority to place any employee under suspension on condition stipulated in Rule 9 (1) (a) and (b) of Rules 1966. Suspension under Rule 9 (1) (a) and (b) is dependent upon discretion of the authority on the condition prescribed therein except the proviso of Rule 9(1) (b) of Rules 1966 which is mandatory in nature. The relevant proviso is reproduced as under for ready reference and convenience:

Provided that a Government servant shall invariably be placed under suspension when a challan for a criminal offence involving corruption or other moral turpitude is filed against him.

9. The appellant was placed under suspension. The said suspension on account of when a challan for a criminal case involving corruption or moral turpitude is filed against him, **the authority had no other option but to place employee under suspension under the deeming clause of Rule 9 of Rules**



1966. Therefore, the said suspension cannot be treated as unjustified even in case of acquittal also, because at the time of suspension it was justified under proviso of Rule 9 (1) (b) of Rules 1966.

10. Once it is held that suspension of employee was not wholly unjustified, he cannot be held entitled to pay allowances for the period of suspension. **As at the time of suspension, there was no other option but to suspend the appellant on account of his custody in a criminal case.** Merely because he was acquitted, the said suspension of petitioner which was under the statutory rules cannot be treated as wholly unjustified.

11. The Hon'ble Supreme Court in the case of **Raj Narain v. Union of India, (2019) 5 SCC 809** where it has clearly been held that an employee against whom criminal proceedings are initiated would stand on a different footing in comparison to an employee facing a departmental inquiry and further that an employee involved in a crime disables himself from rendering his services on account of his incarceration in jail and subsequent acquittal by an Appellate Court would not entitle him to claim back wages.

12. Hon'ble Supreme Court in the case of Greater Hyderabad Municipal Corpn. v. M. Prabhakar Rao, (2011) 8 SCC 155 has held, in the light of Rules governing the conditions of service of the employee therein, that the relevant rule vests power on the competent authority to order reinstatement and to form an opinion whether suspension of the government servant was wholly unjustified and if in his opinion suspension is found to be wholly unjustified, such government servant would be paid full pay and allowances to which he would have been entitled had he not been suspended.



13. Referring to the judgment of Union of India v. K.V. Jankiraman (1991) 4 SCC 109, Hon'ble Supreme Court in M. Prabhakar Rao (supra) has also observed that in cases where criminal conviction results in acquittal with benefit of doubt or on account of non-availability of evidence, the authority concerned must be vested with the power to decide whether the employee deserves any salary for the intervening period and if he does, the extent to which he deserves such benefit.

14. It has also been observed in Jankiraman (supra) that to lay down a rule that in every case when an employee is exonerated in disciplinary proceedings he shall be entitled to all salary for the intervening period, is to undermine discipline in the administration that shall jeopardise public interest.

15. Hon'ble Supreme Court has further observed in M. Prabhakar Rao (supra), relying on Jankiraman (supra) that even in cases where acquittal in criminal proceedings is on account of non-availability of evidence, the authority concerned must be vested with the power to decide whether the employee at all deserves any salary for the intervening period and further that such a power is vested in the competent authority with the view to ensure that discipline in administration is not undermined and public interest is not jeopardised.

16. It has also been observed by the Apex Court in M. Prabhakar Rao (supra) that in every such case where an employee is exonerated in disciplinary or criminal proceedings, whether or not he shall be entitled to all salary during the period of suspension, such a decision has to be taken by the competent authority on the facts and circumstances of each case. Paragraphs 8 to 10 of M. Prabhakar Rao (supra) are extracted herein below:



“8. Sub-rule (3) of FR 54-B extracted above, thus, vests power on the competent authority to order reinstatement to form an opinion whether suspension of a government servant was wholly unjustified and if, in its opinion, the suspension of such government servant is wholly unjustified, such government servant will be paid the full pay and allowances to which he would have been entitled, had he not been suspended. The proviso to sub-rule (3) of FR 54-B, however, states that where such authority is of the opinion that the termination of the proceedings instituted against the government servant had been delayed due to reasons directly attributable to the government servant then the government servant shall be paid for the period of such delay only such amount (not being the whole) of such pay and allowances as it may determine. In other words, even where the competent authority is of the opinion that the suspension was wholly unjustified, the government servant may still not be entitled to be paid the whole pay and allowances, but may be paid such pay and allowances as may be determined by the competent authority.

9. The rationale, on which sub-rule (3) of FR 54-B is based, is that during the period of suspension an employee does not work and, therefore, he is not entitled to any pay unless after the termination of the disciplinary proceedings or the criminal proceedings the competent authority is of the opinion that the suspension of the employee was wholly unjustified. This rationale has been explained in clear and lucid language by a three-Judge Bench of this Court in *Union of India v. K.V. Jankiraman* [(1991) 4 SCC 109 : 1991 SCC (L&S) 387 : (1993) 23 ATC 322] . At SCC p. 121 in para 26 P.B. Sawant, J., writing the judgment for the Court in the aforesaid case further observed:

“26. ... However, there may be cases where the proceedings, whether disciplinary or criminal, are, for example, delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee, etc. In such circumstances, the authorities concerned must be vested with the power



to decide whether the employee at all deserves any salary for the intervening period and if he does, the extent to which he deserves it. Life being complex, it is not possible to anticipate and enumerate exhaustively all the circumstances under which such consideration may become necessary. To ignore, however, such circumstances when they exist and lay down an inflexible rule that in every case when an employee is exonerated in disciplinary/criminal proceedings he should be entitled to all salary for the intervening period is to undermine discipline in the administration and jeopardise public interests.”

10. It will be clear from what this Court has held in *Union of India v. K.V. Jankiraman* [(1991) 4 SCC 109 : 1991 SCC (L&S) 387 : (1993) 23 ATC 322] that even in cases where acquittal in the criminal proceedings is on account of non-availability of evidence, the authorities concerned must be vested with the power to decide whether the employee at all deserves any salary for the intervening period, and if he does, the extent to which he deserves it. In the aforesaid case, this Court has also held that this power is vested in the competent authority with a view to ensure that discipline in administration is not undermined and public interest is not jeopardised and it is not possible to lay down an inflexible rule that in every case where an employee is exonerated in the disciplinary/criminal proceedings he should be entitled to all salary during the period of suspension and the decision has to be taken by the competent authority on the facts and circumstances of each case.”

17. Hon’ble Supreme Court in *Reserve Bank of India v. Bhopal Singh Panchal*, (1994) 1 SCC 541 has clearly held that as per the regulation applicable in the said case, the employer has to have exclusive power to decide whether to treat the period of suspension on duty or on leave or otherwise and that the power, thus, vested cannot be validly challenged. The Court further observed that in such a situation the employee is absent for reasons of his own involvement in



the misconduct and **the employer is in no way responsible for keeping him away from his duties** and therefore, the employer cannot be saddled with the liability to pay the employee his salary and allowances for that period as the same would be against the principle of ‘no work no pay’ and positively inequitable to those who have to work and earn their pay. The Court further held that the employer’s power in that behalf is unassailable. Paragraph 15 of the judgment in Bhopal Singh Panchal (supra) is apposite to be quoted here which reads as under:

“15. We have already pointed out the effect of the relevant provisions of Regulations 39, 46 and 47. The said regulations read together, leave no manner of doubt that in case of an employee who is arrested for an offence, as in the present case, his period of absence from duty is to be treated as not being beyond circumstances under his control. In such circumstances, when he is treated as being under suspension during the said period, he is entitled to subsistence allowance. However, the subsistence allowance paid to him is liable to be adjusted against his pay and allowances if at all he is held to be entitled to them by the competent authority. The competent authority while deciding whether an employee who is suspended in such circumstances is entitled to his pay and allowances or not and to what extent, if any, and whether the period is to be treated as on duty or on leave, has to take into consideration the circumstances of each case. It is only if such employee is acquitted of all blame and is treated by the competent authority as being on duty during the period of suspension that such employee is entitled to full pay and allowances for the said period. In other words, the Regulations vest the power exclusively in the Bank to treat the period of such suspension on duty or on leave or otherwise. The power thus vested cannot be validly challenged. During this period, the employee renders no work. He is absent for reasons of his own involvement in the misconduct and the Bank is in no way responsible for keeping him away from his duties. The Bank, therefore, cannot be saddled with the liability to pay him his salary and allowances for the period. That will be against the principle of



„no work, no pay“ and positively inequitable to those who have to work and earn their pay. As it is, even during such period, the employee earns subsistence allowance by virtue of the Regulations. In the circumstances, the Bank“s power in that behalf is unassailable.”

18. In Union of India v. Jaipal Singh, (2004) 1 SCC 121 Hon’ble Supreme Court has held that if an employee or public servant got involved in a criminal case and his prosecution which ultimately resulted in his acquittal was not at the behest of or by the department itself, **the department, in any manner, cannot be faulted 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. The relevant observations can be found in paragraph no.4 in Jaipal Singh (supra), which is extracted here in 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 therefore 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 therefore 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 advertent 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.”

19. Regard may be had in this respect to yet another judgment of Hon’ble Supreme Court in **Sukhdarshan Singh v. State of Punjab, (2024) 14 SCC 531** where Hon’ble Supreme Court has held that in terms of the rules applicable therein, where there is an order of dismissal and thereafter, the employee concerned is reinstated, the authority concerned is to pass an order as to whether the period from the date of suspension or from the date of dismissal till reinstatement of the employee, is to be treated as the period spent on duty for any purpose. Hon’ble Supreme Court further holds that in a situation where Appellate Authority finds termination of services of an employee to be illegal, it would not ipso facto inevitably follow that employee will become entitled to claim the salary for the entire period, consequent upon his being found to be entitled to be reinstatement and that this is a matter for the authority to decide. Paragraph 24 of ***Sukhdarshan Singh (supra)*** is extracted herein below:

“24. Rule 15(v)(f) indeed contemplates that when there is a dismissal, removal, compulsory retirement or reduction to a lower service inter alia and there is an order of reinstatement, the authority is to pass an order as to whether the period from the date of suspension or from the date of his dismissal, removal or compulsory retirement till the date of



his reinstatement, is to be treated as a period spent on duty for any purpose. This gives a clear indication that upon an order being passed by the appellate authority finding the termination of employee to be illegal and leaves it there, it would not *ipso facto* inevitably follow that the employee will become entitled to claim the salary for the entire period consequent upon his being found to be entitled to reinstatement. This is a matter for the authority to decide.”

20. On a careful reading of the judgments referred to herein above, the principle of law which can be deduced is that in case order of reinstatement of an employee is passed on his acquittal in the criminal case by the Appellate Court, such an employee will not *ipso facto* be entitled for salary or any other benefit for the period he was placed under suspension or for the period he was out of employment on account of his dismissal for the reason of his conviction by the Trial Court.

21. Accordingly, the reasons of the respondent having been kept out of employment are not attributable to the appellant and therefore, in terms of the law, as discussed above, he was not entitled to the salary for the period in question.

22. In the judgments which have already been quoted above, Hon'ble Supreme Court has discussed the rationale for vesting such a power with the competent authority of the employer. In the instant case, the competent authority of the respondent has exercised such discretion, which in our opinion, is based on the totality of the facts and circumstances of the case. In such a situation, in our opinion, once the competent authority of the appellant exercised its discretion denying the benefit of the period in question any interference by the Court in exercise of its jurisdiction under Article 226 of the Constitution of India would be



uncalled for. The discretion exercised by the competent authority of the appellant, in this case, is based on relevant facts, and therefore, for this reason as well, interference in such a discretionary decision of the appellant is unwarranted.

23. In view of discussion made above, this Court is of the considered opinion that impugned order passed by writ Court is justified and does not warrant any interference. Accordingly, order passed by learned writ Court is hereby affirmed and Writ Appeal is hereby *dismissed*.

(Anand Pathak)
Judge

(Anand Singh Bahrawat)
Judge

Ahmad