



**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 21<sup>st</sup> OF JANUARY, 2025**

**WRIT PETITION No. 2262 of 2019**

***KISHANSINGH***

*Versus*

***PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT AND  
OTHERS***

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**Appearance:**

*Shri Prasanna R. Bhatnagar- Advocate for the petitioner.*

*Shri Vishal Singh Panwar- G.A. for the State.*

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**ORDER**

1] Heard.

2] This petition has been filed by the petitioner under Article 226 of the Constitution of India, against the order dated 14.12.2017, as also the order dated 09.04.2019. Vide order dated 14.12.2017, passed by respondent No.3 the CEO, Zila Panchayat, District Panchayat- Ratlam, it has been held that the petitioner is not entitled for the salary and other benefits for the period 13.01.2008 to 14.12.2017, on the basis of no work no pay, on account of pendency of a criminal case. Whereas, vide order dated 09.04.2019, passed by the same authority, it has been directed that the petitioner is not entitled to the time bound pay scale, as he has not completed three years of service, from 14.12.2007.



3] In brief, the facts of the case are that on 29.09.2003, the petitioner was appointed on the post of Panchayat Secretary, at Gram Panchayat Mindli, District Ratlam. Because of certain financial irregularities, the petitioner was de-notified from service on 13.01.2008. Subsequently, a criminal case was also registered against the petitioner at Crime No.80/2009. In the aforesaid criminal case, the petitioner was finally acquitted vide the judgment dated 08.08.2016, and subsequent to that, the petitioner also filed an application for his reinstatement, however, as no order was passed, W.P. No.6968/2016 was also preferred by him, which was decided by this Court on 07.12.2016, directing the respondents to decide the petitioner's representation within four weeks. Thus, the respondents have passed the impugned order dated 14.12.2017, whereby, although the petitioner was reinstated in service as Panchayat Secretary, however, it was also observed that the petitioner shall not be entitled to the wages for the period from 13.01.2008 to 14.12.2017, on the basis of no work no pay. Subsequent to the aforesaid order, during the pendency of the petition, the respondent has also passed the order dated 09.04.2019, whereby, it has also been held that the petitioner has not completed three years of service satisfactorily, hence, he is not entitled to time bound pay scale.

4] Shri P.R. Bhatnagar, learned counsel for the petitioner has submitted that, so far as the impugned order dated 14.12.2017 is concerned, the respondents have erred in not considering the fact that the acquittal of the petitioner was honourable and he should have been reinstated from the date of acquittal itself, i.e., on 08.08.2016, whereas, not only that the order has been made effective from 14.12.2017, but his back wages have also not



been granted on the basis of no work no pay from 13.01.2008 till the date of order dated 14.12.2017.

5] Counsel for the petitioner has submitted that in an identical matter, in the case of *G.M. Tank Vs. State of Gujarat and Others*, reported as (2006) 5 SCC 446 the Supreme Court had had the occasion to consider the aforesaid aspect of the matter, and it has been held that an employee who is acquitted in a criminal case would be entitled to get the benefit of reinstatement with effect from the date on which he was acquitted, and also that, he would be entitled to claim the wages from the date of acquittal.

6] It is also submitted that the respondents have not conducted any departmental enquiry, which is also prescribed in the *M.P. Panchayat Service (Appeal and Discipline) Rules, 1999*.

7] So far as the subsequent order dated 09.04.2019 is concerned, it is submitted that admittedly, the petitioner's initial appointment was on 29.09.2003, and even before his date of de-notification dated 13.01.2008, he had already completed three years of service, and thus, there was no reason for the respondents to not to count the aforesaid period, but instead, the respondents have counted the period with effect from the date of passing of order of reinstatement dated 14.12.2017, which is also erroneous, and thus, the aforesaid order is also liable to be quashed.

8] The prayer is opposed by the counsel for the respondents/State and it is submitted that looking to the conduct of the petitioner, impugned orders have been passed, and no interference is called for.

9] A reply to the petition has also been filed, stating that a preliminary enquiry was also conducted against the petitioner, and on the basis of which only, the criminal case was registered against him, and since



the petitioner has not worked from the date of his de-notification till the date of order of reinstatement, he has not rendered his services as Panchayat Secretary (*Karami*), thus he is not entitled to any benefits.

10] Heard. Having considered the rival submissions and on perusal of the record, as also the impugned orders, it is apparent that the petitioner was de-notified on 13.01.2008, and in the criminal case registered against him on 12.09.2009 in Crime No.80/2009, he was acquitted by the Second Additional Sessions Judge, Jaora, in S.T. No.135/2010, vide order dated 08.08.2016.

11] At this juncture, it would be fruitful to refer to the decision rendered by the Supreme Court in the case of *G.M. Tank (Supra)*, the relevant para of the same, reads as under:-

“32. In the instant case, the appellant joined the respondent in the year 1953. He was suspended from service on 8-2-1979 and got subsistence allowance of Rs 700 p.m. i.e. 50% of the salary. On 15-10-1982 dismissal order was passed. The appellant had put in 26 years of service with the respondent i.e. from 1953-1979. The appellant would now superannuate in February 1986. On the basis of the same charges and the evidence, the department passed an order of dismissal on 21-10-1982 whereas the criminal court acquitted him on 30-1-2002. However, as the criminal court acquitted the appellant on 30-1-2002 and until such acquittal, there was no reason or ground to hold the dismissal to be erroneous, any relief monetarily can be only w.e.f. 30-1-2002. But by then, the appellant had retired, therefore, we deem it proper to set aside the order of dismissal without back wages. The appellant would be entitled to pension.”

*(Emphasis Supplied)*

12] It is apparent from the aforesaid decision that the Supreme Court has allowed the benefit to an employee, who was dismissed from service on account of the criminal case, from the date of his acquittal, but the period during which he had not worked, has been counted in service, as



it has been held by the Supreme Court that the petitioner would be entitled to the pension also.

**13]** In such circumstances, so far as the impugned order dated 14.12.2017 is concerned, this Court finds that in the said order also, the respondents have not taken into account the date of acquittal from which the petitioner ought to have been held to be entitled to the benefits of reinstatement, and thus, the order dated 14.12.2017 is hereby modified to the extent that instead of 14.12.2017, he shall be entitled to the benefit of wages and other benefits from 08.08.2016.

**14]** Similarly, in the order dated 09.04.2019, the observation of the respondent that the petitioner has not completed three years satisfactory service, is also liable to be quashed, as apparently, the petitioner had already completed three years of service, even before his de-notification, and in such circumstances, the petitioner shall be entitled to the time bound pay scale.

**15]** Needless to say, the time spent by the petitioner from the date of de-notification till his acquittal, shall be treated as in service, for the grant of other consequential benefits.

**16]** With the aforesaid directions, the petition stands *allowed* and *disposed of*.

**17]** Let the benefit accrued to the petitioner be also given to him within a further period of three months.

**(SUBODH ABHYANKAR)**  
**JUDGE**