

(2018) 09 CHH CK 0083

Chhattisgarh High Court

Case No: Writ Petition (S) No. 3348 Of 2010

Rajesh Verma

APPELLANT

Vs

Chhattisgarh Gramin Bank And
Ors

RESPONDENT

Date of Decision: Sept. 6, 2018

Acts Referred:

- Indian Penal Code, 1860 - Section 182, 409

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Gagan Tiwari, Rajeev Shrivastava, B.D. Guru

Final Decision: Allowed/Disposed Of

Judgement

P. Sam Koshy, J

1. Grievance of the petitioner in the instant writ petition is to the order of his removal from service passed on 21.7.2008.

2. The undisputed fact is that the petitioner was working under the respondents as a clerk-cum-cashier. The petitioner was prosecuted in a criminal

case for the offence punishable under Section 409 and 182 of the Indian Penal Code. The said case initially resulted in conviction by the Judicial

Magistrate First Class vide judgment dated 6.6.2008.

3. The said judgment of conviction was put to challenge in an appeal vide Criminal Appeal No. 50/2008 before the Second Additional Sessions Judge,

Janjgir-Champa. The said appeal was finally decided on 13.4.2009 and the petitioner stood acquitted of all the charges.

4. Meanwhile, pursuant to the conviction, the respondents invoking clause 29 of the Chhattisgarh Gramin Bank Officers and Employees Service

Regulations, 2007 (hereinafter referred to as "the Regulation, 2007) passed an order for removal of the petitioner from service.

5. However, sub-clause 4 of clause 29 of the Regulation, 2007 stipulates that when the dismissal is based on conviction and the conviction is set aside

by the higher Court, the officer/employee is liable to be reinstated in service.

6. This provision of sub-clause 4 of clause 29 of the Regulation, 2007 seems to have been acted upon by the respondents.

7. The respondents in their reply have come up with a stand that since against the order of acquittal there is an appeal preferred by the State which is

pending consideration, the petitioner's claim has not been considered.

8. This stand of the respondents may not be sustainable, for the reason that the Regulation, 2007, invoking which the service of the petitioner was

dismissed, does not provide for any such situation or circumstances. Once when there is an order of acquittal by the Court, sub-clause 4 of clause 29

of the Regulation, 2007 automatically comes into force. The respondents were duty bound to consider the case of the petitioner for reinstatement. Of

course, the outcome of the acquittal appeal which is pending consideration would be taken into consideration after the appeal is finally decided, not at

this juncture.

9. Given the facts and circumstances, this Court without entering into any other ground which the petitioner has raised in the writ petition, allows the

writ petition with a direction to the respondents for issue of suitable orders under sub-clause 4 of clause 29 of the Regulation, 2007 reinstating the

petitioner, if he is not otherwise disqualified on any other ground.

10. Meanwhile, if the petitioner has crossed the age of superannuation, an appropriate order be passed treating the entire period as period spent on

duty. So far as the consequential benefits are concerned, let the disciplinary authority pass a suitable order in this regard.

11. Let this exercise be done within a period of 45 days from the date of receipt of certified copy of this order.

12. The writ petition stands allowed and disposed of accordingly.