

(2018) 09 CHH CK 0276

Chhattisgarh High Court

Case No: Writ Petition (S) No. 6118 Of 2018

R.P. Sidar

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Sept. 18, 2018

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Ajay Shrivastava, Astha Shukla

Final Decision: Allowed

Judgement

P. Sam Koshy, J

1. The claim of the petitioner in the instant Writ Petition is for granting all the consequential benefits for the period he was placed under suspension

between 19/03/2015 to 12/10/2015.

2. The facts relevant for adjudication of the present Writ Petition is that, the petitioner was placed under suspension on 19/03/2015 and was issued

with a chargesheet for major misconduct on 22/04/2015.

3. Ultimately, the petitioner has been inflicted with only a minor punishment vide order dated 21/03/2018 whereby his punishment imposed was of

stoppage of two annual increments without cumulative effect.

4. The contention of the counsel for the petitioner is that, the State Government had vide circular dated 23/11/2010 have ordered that, where an

employee is prosecuted for major misconduct in a disciplinary proceeding and the disciplinary proceeding ends up by issuance of minor punishment,

then for the period of suspension, the employee would be entitled for the entire wages and allowances minus suspension allowance that has been paid

to the delinquent employee and the present Writ Petition has been filed for seeking of the said relief.

5. The issue raised in the present Writ Petition already stands adjudicated by this Court in the case of Vyas Narayan Pandey v. State of Chhattisgarh

& Ors. [WPS No. 3463 of 2017 decided on 10/07/2018] whereby referring to the judgment of Madhya Pradesh High Court in the case of Y.S.Sachan

v. State of Madhya Pradesh & Ors. [2004 1 MPHT 22], this Court has allowed the Writ Petition. The relevant portion of the judgment is as under:-

7. It would be relevant at this juncture to refer paragraph 8 of the judgment of MP High Court in case of Y.S. Sachan (Supra) which is being

reproduced herein as under :

8. So far as the salary for the period of suspension is concerned, the petitioner should be paid full salary. A minor penalty has been imposed upon the

petitioner. The punishment is so light and therefore the petitioner could not be saddled with the heavier penalty of depriving him the salary for the

suspension period. This part of the impugned order is not a speaking order. No reasons have been assigned for depriving the petitioner of his salary for

the suspension period. The Government of India has issued a circular dated 3-12-1985 stating there in that where departmental proceedings against a

suspended employee for the imposition of a major penalty finally end with the imposition of a minor penalty, the suspension can be said to be wholly

unjustified in terms of F.R. 54-B and the employee concerned should, therefore, be paid full pay and allowances for the period of suspension by

passing a suitable order under F.R. 54-B. The guideline issued by the Central Government for its employees is just and reasonable and it should be

followed by the State Government and its instrumentality. The Jabalpur Development Authority is also such instrumentality and it will also be governed

by such interpretation of Rule 54-B of the Fundamental Rules.

8. The respondent-State of Chhattisgarh by a subsequent circular dated 23.11.2010 have adopted the same analogy wherein in paragraph 6 of the said

circular it has been held as under:

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9. When we compare the aforesaid circular of the State Govt. as also the judgment of MP High Court in case of Y.S. Sachan (Supra) to the facts of

the present case, both squarely fits into the facts of the present case wherein proceeding against the present petitioner though was initiated for major

misconduct, but ended without any punishment after conclusion of DE. Therefore, the petitioner would be entitled for all consequential reliefs for the

period of suspension between 13.01.2005 to 24.06.2006.

10. The writ petition accordingly stands allowed and disposed of. It is directed that the petitioner be granted entire relief which he was otherwise

entitled for had he not been placed under suspension between 13.01.2005 to 24.06.2006. While granting the said relief, the respondents shall adjust the

subsistence allowance that has already been paid to him.

6. In the light of the decision passed in the aforesaid judgment by this Court in the case of Vyas Narayan Pandey (Supra) so also by the Madhya

Pradesh High Court in the case of Y.S.Sachan (Supra), this Court is of the opinion that the present case also being identical would stands governed by

the decision of rendered in the aforementioned decision of Y.S.Sachan.

7. The Writ Petition accordingly stands allowed.

8. The respondent No.1 is directed to ensure that, all necessary orders in this regard be issued keeping in view the order of this Court as also the

circular of the State Government dated 23/11/2010.

9. Let this exercise be done within a period of 90 days.