

Krishna Mohan Dutta Vs State of Tripura & Others

Court: Gauhati High Court

Date of Decision: April 7, 1988

Citation: (1988) 2 GLR 332

Hon'ble Judges: J.Sangma, J and S.N.Phukan, J

Bench: Division Bench

Advocate: M.Majumdar, I.B.Indu, B.Das, Advocates appearing for Parties

Judgement

S. N. Phukaj, J.

The petitioner was put under suspensioa as he was involved in a criminal case. The suspansion order was passed on 4

1.1935 vide Aunexure1 to the petition. Thereafter by a corrigendum vide Annexure2 to the petition the date of suspension was shifted from 4.1.85

to 21.9.35. In other words the suspension order was given retrospective effect. The criminal trial ended in acquittal and thereafter by an order

dated I 4 87 the respondents rewed fie suspension order and reinstated the petitioner. As the petitioner has not been paid his full emoluments

during the period of suspension, he has approached this Court by the present petition.

2. Heard Mr. B. Das, learned counsel for the petitioner and Mr. M. Mazumdar, learned Govt. Advocate. In view of the settled law the suspensioa

order giving retrospective effect cannot stand and as such is liable to be quashed.

3. The main contention here is whether or not the petitioner is entitled to get his fall salary and allowances for the period of suspension. Admittedly

the suspension was only for purpose of a criminal trial and no separate departmental proceeding was instituted.

4. In Brahma Chaidra Gupta vs. Union of India, AIR 1934 S. C 380 their Lordships laid down that in such a case the employee is entitled to get

full amount of salary on his reinsataw it for the period of suspension. According to Mr Das learned counsel for the petitioner, the petitioner was

acquitted on the ground that the prosecution failed to prove the beyond reasonable doubt. Mr. Das further submits that in case of acquittal, there is

no differs between acquittal for the failure of prosecution to prove the case beyond reasonable doubt and houble acquittal for the purpose of

deciding salarjr etc. of an employee during the period of suspension.

5. In *Duttatrava Vasudeo Kulkarni vs. Director of Agriculture* 1984 (3) SLR 83, a Division Bench of the Bombay High Court held that an

employee is entitled to full pay and allowances as if he had not been suspended the concept of benefit of doubt is irrelevant. According to their

Lordships acquittal by giving benefit of doubt means acquittal for all purposes and amounts to "acquitted of blame". We respectfully agree with the

law laid down by the Bombay High Court and hold that if any employee is put under suspension because of any criminal proceeding and no

separate departmental proceeding has been drawn up and thereafter he is reinstated on being acquitted by the criminal court is entitled to get full

salary for the period of suspension even if the acquittal is on the basis of benefit of doubt.

6. In view of the aforesaid legal position, we hereby direct the respondents to pay full salary and allowances as admissible under the rules to the

petitioner during the period of suspension i.e. w. e. f. 21.9.85 to 12.4.1987.

With the above direction, the petition is disposed of.