



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Civil Writ Petition No.13662/2024

1. Chairman and Managing Director, Bharat Sanchar Nigam Limited, Bharat Sanchar Bhawan, H C Mathur Lane, Janpath, New Delhi- 110001.
2. Chief General Manager, BSNL, Rajasthan Telecom Circle, Sardar Patel Marg, C-Scheme, Jaipur
3. Chief General Manager, T & D Circle, BSNL, Sanchar Vilas Bhawan, Residency Road, Jabalpur (M.P.) 482001.
4. PGMTD, BSNL, Jaipur, Telecom District MT Road, Jaipur- 302010

-----Petitioners

Versus

1. Ram Niwas Sharma Son Of Late Shri Rati Ram Sharma, Aged About 64 Years, R/o P. No. 22, Krishna Vihar- A, Rajat Path, Mansarovar, Jaipur, Rajasthan 302020, AD (Technology) TES Gr-B

-----Respondent-Applicant

2. Secretary, Telecom Sanchar Bhawan 20, Ashoka Road, New Delhi - 110001
3. Sr. Deputy Director General Rajasthan Telecom, Rajasthan Lsa, Jaipur - 302004.

-----Proforma Respondent – Non Applicant

For Petitioner(s)	:	Mr.Ravindra Pal Singh, Adv. for Mr.Neeraj Batra, Govt. Counsel.
For Respondent(s)	:	Mr.S.N. Sharma, Adv. & Mr.S.R. Sharma, Adv.

**HON'BLE MR. JUSTICE AVNEESH JHINGAN
HON'BLE MR. JUSTICE PRAMIL KUMAR MATHUR**

Order

05/02/2025

AVNEESH JHINGAN, J [ORAL]:-

1. This petition is filed seeking quashing of order dated 23.02.2024 passed by the Central Administrative Tribunal, Jaipur Bench, Jaipur (for short 'the Tribunal').



2. The limited grievance raised and pressed is with regard to setting-aside of the order dated 30.06.2022 by the Tribunal, whereby the payment due to the respondent No.1 (hereinafter referred to as 'employee') during suspension period was restricted to the subsistence allowance.

3. The brief facts are that at the relevant time the employee while working as Sub Divisional Engineer (SDE), Deoli, District Tonk was caught red-handed, in a trap laid down under the provisions of the Prevention of Corruption Act, 1988 (hereafter 'the PC Act'). During pendency of the investigation, employee was suspended twice from 28.10.2002 to 01.09.2004 and 17.07.2007 to 08.04.2009. The Special Judge (PC Act), Ajmer vide judgment dated 26.03.2021 acquitted employee in the PC Act case. There was no disciplinary proceedings initiated against the employee. On 30.06.2022 the Member (Services), Department of Telecommunications, New Delhi passed the order that suspension of the employee was justified and payment of only subsistence allowance be made for suspension period. The employee filed application before the Tribunal with multiple prayers; one was setting-aside order dated 30.06.2022 and for issuance of direction that the period of suspension be treated as on duty for purposes of fixing the pay and allowances. The OA was partly allowed. The prayer for setting-aside the order dated 30.06.2022 was accepted. Directions were issued to treat the suspension period as on duty and after fixing pay and allowances, arrears be paid. Hence, the present petition.



4. Learned counsel for the petitioner submitted that employee was acquitted by giving benefit of doubt and it was not honorable acquittal, therefore the suspension of the employee was justified.

The decision of Supreme Court in **The State of Rajasthan & Ors. Vs. Phool Singh** reported in **[AIR 2022 SC 4176]** is relied upon.

5. Per contra no departmental proceedings were initiated against the employee. The reason for suspension was pending investigation in the case under the PC Act in which employee was acquitted.

6. The uncontested facts are:- (i) that the employee was suspended twice for the reasons that investigation under the PC Act was pending; (ii) there was no departmental proceedings against the employee; and (iii) the employee was acquitted in the criminal case.

7. There cannot be quarrel with the proposition that the suspension of an employee for the reason of pendency of investigation, enquiry or trial in a criminal offence is not a punishment. Reference is made to the judgment of the Supreme Court in the case of **State of Orissa through its Principal Secretary, Home Dept. Vs. Bimal Kumar Mohanty** reported in **[(1994)4 SCC 126]**. The relevant para is quoted as under:-

"13.Suspension is not a punishment but is only one of forbidding or disabling an employee to discharge the duties of office or post held by him. In other words it is to refrain him to avail further opportunity to perpetrate the alleged misconduct or to remove the impression among the members of service that dereliction of duty would pay fruits



and the offending employee could get away even pending enquiry without any impediment or to prevent an opportunity to the delinquent officer to scuttle the enquiry or investigation or to win over the witnesses or the delinquent having had the opportunity in office to impede the progress of the investigation or enquiry etc."

8. In case in hand, employee was suspended due to pendency of the investigation under the PC Act and ultimately he was acquitted. In absence of any departmental proceedings against the employee the order dated 30.06.2022 concluding that the suspension was justified and payment to the employee be restricted to the subsistence allowance tantamounts to punishing the employee inspite of the acquittal in the criminal case.

9. The Tribunal rightly concluded that there was no departmental proceedings initiated and after acquittal in the criminal case, there was no occasion to restrict the pay during suspension period to the subsistence allowance.

10. In other words, in absence of any departmental enquiry and any punishment order thereof by the department and after acquittal in criminal case the employee cannot be punished by restricting the pay during the period of suspension.

11. Reliance on the decision of the Supreme Court in **Phool Singh** (supra) by the counsel for the petitioner is of no avail. In that case the employee was dismissed from service in departmental proceedings and the dismissal was upheld by the appellate authority. On an acquittal on the basis of benefit of doubt the employee claimed reinstatement. In that backdrop it was held that the departmental proceedings and the criminal



proceedings are at different pedestal and acquittal on the benefit of doubt *ipso facto* shall not entail reinstatement of the employee.

12. No case is made out for interference in the impugned order.

The writ petition is dismissed.



(PRAMIL KUMAR MATHUR), J

(AVNEESH JHINGAN),J

Himanshu Soni/49

Reportable:- **Yes**