

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 18159/2019

Chandra Prakash Bharadwaj S/o Late Sh. Kedar Narain Sharma,
Aged About 57 Years, [REDACTED]

-----Petitioner

Versus

Rajasthan Financial Corporation, Through Its Managing Director,
[REDACTED]

-----Respondent

For Petitioner(s)	:	Mr. Jitendra Sharma
For Respondent(s)	:	Ms. Manjeet Kaur

HON'BLE MR. JUSTICE SUDESH BANSAL
Order

02/12/2024

1. Heard counsel for both parties and perused the record.
2. The facts which are undisputed on record are that on account of arrest and criminal prosecution of petitioner in a criminal case registered by the SOG, Jaipur for offences under Sections 420, 406, 120-B IPC and Section 10/24 of the Immigration Act, 1983 and Section 12-B of the Indian Passport Act, 1967, petitioner was placed under suspension by the Rajasthan Financial Corporation (hereinafter referred to as "RFC") vide order dated 29.08.2011 w.e.f. 22.08.2011. At that point of time, petitioner was holding the post of Stenographer Grade-I. Later on, petitioner was acquitted in such criminal proceedings vide judgment dated 12.03.2015 passed by the Court of Additional Chief Judicial Magistrate, Metropolitan Magistrate (Communal Riots), Jaipur Metropolitan, though, by extending benefit of doubt, but that judgment of acquittal attained finality, hence, the suspension of petitioner was

revoked by the RFC vide order dated 15.06.2015 (Ann-6). It is also undisputed that neither any charge-sheet was issued to the petitioner nor any departmental inquiry was proceeded against the petitioner by the RFC.

3. As per the order of revocation of suspension dated 15.06.2015, petitioner was held entitled for the last salary drawn by him for the suspension period but later on RFC issued a separate order dated 28.08.2015 (Ann-1) deciding that the period of suspension of petitioner shall be treated as on duty with the condition that neither the arrears of difference nor AGI, accrual of OL etc. will be allowed.

4. Petitioner, feeling aggrieved by non-payment of annual grade increments as also arrears of last drawn salary during suspension period, has preferred this writ petition on 05.10.2019, impugning the order dated 28.08.2015 (Ann-1).

5. Learned counsel appearing on behalf of the petitioner has relied upon the judgment of the Coordinate Bench dated 26.02.2018 passed in **S.B. Civil Writ Petition No. 13564/2016 titled Rajendra Singh Gehlot Vs. Rajasthan Financial Corporation**, wherein the entire monetary benefits and difference of pay during the period of suspension were ordered to be paid to the petitioner -Rajendra Singh Gehlot and the order has been affirmed by the Division Bench in D.B. Special Appeal Writ No. 626/2018 vide order dated 16.07.2018. In addition, learned counsel for the petitioner has also relied upon another order dated 08.03.2019 passed in **S.B. Civil Writ Petition No.5087/2013 titled Prem Shankar Verma Vs. Rajasthan Finance Corporation**, granting the due financial benefits to the petitioner

during the suspension period following the ratio decidendi expounded in case of **Rajendra Singh Gehlot (supra)**.

6. Hence, the prayer of counsel for petitioner is that apart from the due of last drawn salary of petitioner during the period of suspension, the annual grade increments, which have been withheld and not paid by the RFC may be directed to be paid to the petitioner applying the ratio of law as decided in judgments of **Rajendra Singh Gehlot (supra)** and **Prem Shankar Verma (supra)**.

7. Learned counsel for the respondent-RFC, though, has opposed the prayer of petitioner, however, no contrary proposition of law referred hereinabove in the two judgments have been cited before this Court, on the legal issue of entitlement of employee for payment of arrears of salary as also other monetary benefits for the period of suspension. Learned counsel for respondent does not dispute the legal proposition, but supports the impugned order dated 28.08.2015. Learned counsel does not dispute that no charge-sheet was issued by the RFC to the petitioner nor any departmental inquiry was initiated, since the aforesaid criminal case was not pertaining to the RFC.

8. Having adverted to the rival contention of counsel for both parties, it appears from the record that the petitioner was placed under suspension for the period w.e.f. 22.08.2011 (date of his arrest) to 15.06.2015, but same was not followed by issuance of any charge-sheet or initiation of departmental inquiry by the RFC and later on, after acquittal of the petitioner from the criminal charges, his suspension has been revoked by the RFC vide order dated 15.06.2015.

9. This Court finds that as per the order of revocation of suspension dated 15.06.2015, petitioner has been held entitled for the last salary drawn during the suspension period but the other monetary benefits like grant of annual grade increments have been withheld vide order impugned dated 28.08.2015. Counsel for petitioner has raised a grievance that the entire arrears of last salary drawn by the petitioner have not been released.

10. This Court finds that the provision of Rule 37-A of the Rajasthan Service Rules and Rajasthan Financial Corporation (Staff Regulations), 1958 deals with the issue of suspension but do not suggest withholding of annual grade increments of the employee during his suspension period. In the impugned order dated 28.08.2015 issued by the RFC, the action of withholding of the annual grade increments of the petitioner during suspension period is not supported by any rule or regulations of RFC.

11. In the judgments referred by the counsel for the petitioner in case of **Rajendra Singh Gehlot (supra)** and followed in case of **Prem Shankar Verma (supra)**, the Coordinate Bench of this High Court has directed and allowed the arrears of salary as well as all other financial benefits to the employees during the suspension period. The similar analogy applies to the case of petitioner as well.

12. It is also undisputed that the petitioner has retired from service after attaining the age of superannuation and drawing pension.

13. Hence, considering the totality of facts and circumstances and following the proposition of law expounded by the Hon'ble

Supreme Court in the cases referred hereinabove, the instant writ petition is partly allowed in the following terms:-

(i) The order dated 28.08.2015 (Ann-1) is hereby quashed to the extent of withholding the grant of annual grade increments to the petitioner during suspension period.

(ii) The arrears of last drawn salary to the petitioner during suspension period from 22.08.2011 to 15.06.2015, for which the petitioner was held entitled under the revocation of suspension order dated 15.06.2015, shall be paid to the petitioner within a period of six weeks along with interest @ 6% per annum, if any arrears of salary are due.

(iii) Petitioner shall be given notional benefits of annual grade increments during the period of suspension i.e. from 22.08.2011 to 15.06.2015 but his pension shall be revised accordingly with payment of actual benefits.

(iv) The needful be done within a period of six weeks.

14. Stay application and other pending application(s), if any, stand disposed of.

(SUDESH BANSAL),J