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**(2002) 03 MP CK 0096**  
**In the Madhya Pradesh High Court**  
**Case No : Writ Petition No. 423 of 2002**

Ram Ratan Tiwari

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

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**Date of Decision :** 20-03-2002

**Acts Referred:**

Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 — Rule 9(1)

Prevention of Corruption Act, 1988 — Section 13(1), 13(2)

**Citation :** (2002) 5 MPHT 11 : (2002) 2 MPJR 557 : (2002) 4 MPLJ 401

**Hon'ble Judges :** Bhawani Singh, C.J.; K.K. Lahoti, J

**Bench :** Division Bench

**Advocate :** S.C. Sharma, for the Appellant; P.D. Gupta, Dy. A.G., for the Respondent

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## Judgement

Bhawani Singh, C.J.

Through this petition, order of State Administrative Tribunal, Jabalpur, dated 17-1-2002 passed in Original Application No. 3116/2001 is challenged whereby claim/relief of petitioner has been rejected.

Petitioner was Assistant Jailor in Jail Department, Government of Madhya Pradesh. Criminal case u/s 13(1)(d)/13(2), Prevention of Corruption Act, 1988 was registered against him. After investigation of the case, he was challenged. Consequently, he was placed under suspension by order dated 8-2-2000. The trial ended in the acquittal of the petitioner by judgment dated April 30, 2001 passed by Special Judge, Jabalpur in Special Criminal Case No. 4/2000.

Petitioner submitted application annexed therewith copy of the judgment to the competent authority (Annexure P-3) seeking reinstatement in service. However, he was not permitted to do so. Therefore, petitioner challenged the action of respondents before the Tribunal, which did not find favour with his plea for reinstatement and rejected the same by order dated 17-1-2002.

Question for determination is whether after order of acquittal passed in the case, petitioner should be permitted to join the service.

Shri S.C. Sharma, learned Counsel for the petitioner, contended that trial has ended in acquittal, therefore, respondents should permit the petitioner to join the service. Reference is made to Rule 9(1)(b) of Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966. Besides, Division Bench decision of High Court of Himachal Pradesh in *Surinder Kumar v. State of Himachal Pradesh and Anr.* [1985 (3) SLR 254].

Shri P.D. Gupta, learned Deputy Advocate General, submits that the petitioner has been acquitted giving benefit of doubt and appeal is in continuation of the initial criminal proceedings against him.

The matter was adjourned to enable Counsel for parties to find out whether any other decision deals with the subject. No other decision except *Surendra Kumar's* case (*supra*) is brought to our notice. Therefore, we proceed to examine the matter on the available facts and status of legal position. Rule 9(1)(b) of Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 provides that:--

"Where a case against him in respect of any criminal offence is under investigation, enquiry or trial."

Therefore, a person can be placed under suspension. One of the circumstances for placing the Government servant under suspension is when a case against him in respect of any criminal offence is under investigation, inquiry or trial. Part IV of Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966, deals with suspension. Rule 9(1) provides for circumstances when a person can be placed under suspension by the Government. Petitioner was placed under suspension under the above quoted Rules which means he remains under suspension when criminal offence against him is under investigation, enquiry or trial. Investigation, enquiry or trial is over after announcement of judgment dated April 30, 2001. Therefore, this provision stands exhausted and petitioner can revert back to service. To hold otherwise would mean reading something in the provision which it does not provide. Further it may cause immense hardship to person to wait for the final adjudication of the matter by the Final Court. Therefore, submission of Shri P.D. Gupta, learned Dy. Advocate General cannot be appreciated to the extent that once a person is placed under suspension, he continues under suspension during the appeal as well. We find ourselves in agreement with the decision of High Court of Himachal Pradesh in *Surendra Kumar's* case (*supra*) being nearest to the point involved in this case rather deciding the same question and also that preferment of appeal is not continuance of the trial.

Therefore, what emerges out of the aforesaid discussion is that the Tribunal has not considered the matter in right perspective, therefore, order dated 17-1-2002 is set aside. The petitioner shall be taken back into service and allowed benefits

available to him in accordance with law.