

(2019) 08 CHH CK 0173

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous Petition (CRMP) No. 1836 Of 2018

State Of Chhattisgarh

APPELLANT

Vs

Shyam Sunder Ram And Ors

RESPONDENT

Date of Decision : 26-08-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 201, 302

Citation : (2019) 08 CHH CK 0173

Hon'ble Judges : Prashant Kumar Mishra, J;Gautam Chourdiya, J

Bench : Division Bench

Advocate : K.K. Singh

Final Decision : Dismissed

Judgement

P. Sam Koshy, J

1. The relief sought for by the petitioner in the present writ petition is for an appropriate direction to the respondents for release of the salary and other benefits for the period between August, 2011 to June, 2019 with all consequential benefits along with interest.

2. Facts of the case is that, the petitioner was appointed as Multipurpose Health Worker in the year, 2008. Subsequently, he got implicated in a criminal case for the offence punishable under Sections 302, 201, 149 and 120-B IPC. The petitioner was placed under suspension on 22.04.2015 on his getting arrested. All along the trial, the petitioner was in jail. The trial court convicted the petitioner vide judgment dated 11.09.2013. The conviction was challenged vide Criminal Appeal No.928 of 2013. Subsequently, the petitioner got bail from the High Court vide order dated 25.09.2018, thereby the Criminal Appeal was finally heard and decided on 25.09.2018 whereby the petitioner was acquitted from all the charges levelled against him. The petitioner thereafter has been reinstated in service on 05.03.2019 which he accepted and joined on 06.03.2019.

3. The grievance of the petitioner now is that, from the date the petitioner was

placed under suspension till termination i.e. 01.05.2014, the petitioner has not been granted any subsistence allowance. He further submits that even after joining from 06.03.2019 the petitioner has not been paid any salary. After the petitioner has been acquitted from all the charges by the High Court, the services of the petitioner has to be treated as if he was never prosecuted in criminal case and the judgment of conviction never existed and he should be treated to be in service for all practical purposes and should also be paid the entire salary for the intervening period.

4. So far as placing of the petitioner under suspension is concerned, it is not in dispute. It is also not in dispute that the services of the petitioner was terminated vide order dated 01.05.2014. Hence, from the date of suspension till the order of termination, the petitioner has to be treated in service and for the said period he would had been entitled for subsistence allowance. No reason has been assigned by the department as to why the petitioner would not be entitled for the subsistence allowance. Likewise, after the judgment of acquittal by the High Court if the petitioner has been taken back in service, the petitioner cannot be denied his salary under any circumstances, provided the petitioner has discharged his duties after having been taken back in service.

5. Given the said facts and circumstances of the case, let the respondents No.2&3 scrutinize and also verify the records of the petitioner and pass an appropriate order so far as his entitlement for subsistence allowance during the period he was suspended before termination and also so far as grant of salary from the date taking back in service i.e. 06.03.2019 onwards. Let this exercise be concluded within a period of 90 days from the date of receipt of certified copy of this order.

6. It shall be the responsibility of the petitioner to apprise the respondents No.2&3 so far as order passed by this court is concerned.

7. The writ petition accordingly stands disposed of.