



2025:DHC:3930-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 16.05.2025

+ W.P.(C) 6575/2025

GOVT OF NCT OF DELHI AND ANRPetitioners

Through: Mr. Yeeshu Jain, ASC with Ms.
Priya Shukla, Adv. for GNCTD

versus

SH. SUNIL PANWARRespondent

Through: Mr. Samarth Luthra, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CAV 192/2025

1. In view of the appearance of Mr. Samarth Luthra, Advocate, on behalf of the respondent, the caveat stands discharged.

CM APPL. 29793/2025 (Exemption)

2. Allowed, subject to just exceptions.

W.P.(C) 6575/2025 & CM APPL. 29792/2025

3. This petition has been filed by the petitioners, challenging the Order dated 01.08.2024 passed by the learned Central Administrative Tribunal Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 2816/2022, titled *Sunil Panwar vs. Govt. of*



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NCT of Delhi and Ors., whereby the said O.A. filed by the respondent herein was allowed with the following direction:

“10. In view of the above discussion, the applicant cannot be deprived of pay and allowance for the relevant period of suspension. Therefore, the present Original Application is allowed with directions to the respondents to release salary of the applicant with pay and allowances for the period from 22.06.2013 to 01.01.2022 as the period has been treated as spent on duty. The respondents are further directed to pay the interest on the amount due at the GPF applicable rates. The above directions shall be complied with by the respondents within a period of eight weeks from the date of receipt of a certified copy of this order. Pending Miscellaneous Applications, if any, also stand closed. No order as to the costs.”

4. To give a brief background of the facts on which the present petition arises, the respondent herein, while being posted as an LDC with the Chief Election Office, HQ in the year 2013, was charged with the offence of leakage of the question paper of the Staff Selection Commission (SCC) Combined Graduate Level Examination held on an All India Basis on 21.04.2013. FIR No. 73/2013 was registered under Section 120-B/420/408/468/471/511/34 of the Indian Penal Code, 1860 (hereinafter referred to as, ‘IPC’) and Section 66 of the Information Technology Act, 2000 (hereinafter referred to as, ‘IT Act’) by the Crime Branch, Delhi. The respondent was arrested on 22.06.2013 and was placed under deemed suspension with effect from the said date. He was later released on bail on 05.08.2013.



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5. By an Order dated 06.04.2019, passed by the learned Chief Metropolitan Magistrate (CMM), North West, Rohini Courts, Delhi, charges were framed against the respondent in the said criminal case. The respondent challenged the said order by way of a Revision Petition, being Cr. Rev No. 160/2019. The learned Additional Sessions Court, North West, Rohini Courts, Delhi, *vide* Order dated 26.08.2019, set aside the Order dated 06.04.2019 passed by the learned CMM, North West, Rohini Courts, Delhi, and discharged the respondent in the criminal case.

6. Thereafter, the petitioners issued a Memorandum dated 13.01.2020, initiating departmental proceedings against the respondent under Rule 14 of the CCS (CCA) Rules 1965.

7. In the departmental inquiry as well, the inquiry officer, *vide* report dated 25.11.2021, found that the charges against the respondent were not proved.

8. The Disciplinary Authority, *vide* an Order dated 07.01.2022, accepted the report of the inquiry officer, however, directed that the pay and allowances of the respondent for the period of suspension, that is, 22.06.2013 to 01.01.2022, shall be restricted to the subsistence allowance already drawn by him. We quote from the Order dated 07.01.2022 as under:-

“NOW, THEREFORE, keeping in view the fact & circumstances of the case & relevant record of disciplinary proceedings, the undersigned, being the competent Disciplinary Authority, hereby order as under:-

1. *Shri Sunil Panwar, Grade-IV (DASS)/*



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Junior Assistant is hereby exonerated of the charges framed against him vide said Charge Memorandum dated 13.01.2020, without prejudice to further action as may be warranted against him based on the outcome of the appeal, If any, made by the Crime Branch, New Delhi, against order dated 26.08.2019 of Hon'ble ASJ, Shri Harish Kumar, Rohini Court, Delhi, in any Court.

2. Further, the pay & allowances is restricted to the subsistence allowance already drawn by the official for the period of suspension, i.e. 22.06.2013 to 01.01.2022 as the suspension is wholly justified keeping in view the fact that the official was detained in police custody and thereafter prosecuted in Court of Law.

3. The said period of suspension i.e. 22.06.2013 to 01.01,2022 may be treated as spent on duty.”

(emphasis supplied)

9. Aggrieved by the same, the respondent filed the above O.A. before the learned Tribunal.

10. The learned Tribunal, *vide* the Impugned Order, after taking note of the aforementioned facts, has held that the respondent cannot be deprived of his pay and allowance for the relevant period of suspension, as he had been exonerated of the charges framed against him and discharged by a Court of law. The findings of the Inquiry Officer were also accepted by the Disciplinary Authority.

11. The learned counsel for the petitioners, placing reliance on the Judgment of the Supreme Court in ***Greater Hyderabad Municipal Corporation v. M. Prabhakar Rao***, (2011) 8 SCC 155, submits that



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17. The Disciplinary Authority, however, even in the light of the above facts, found the suspension to be “justified keeping in view the fact that official was detained in police custody and thereafter prosecuted in the court of law”. The finding is, therefore, based on the fact that the respondent had been prosecuted in the court of law, without also taking into account that the respondent was, in fact, discharged in that criminal prosecution. This was a significant and relevant fact that ought to have been considered. Moreover, even after the discharge of the respondent, the petitioners initiated a Disciplinary Inquiry against the respondent and kept him under suspension during the period of such inquiry, where again the charges against the respondent were found to be “not proved”.

18. In *M. Prabhakar Rao (supra)*, the Supreme Court held that where a government employee is acquitted in criminal proceedings on account of the “non-availability of evidence”, the concerned authorities must be vested with the power to decide whether the employee at all deserves any salary for the intervening period, and if does, the extent to which the same is to be granted.

19. In the present case, as noted hereinabove, it is not merely that the respondent was discharged from the criminal charges, but he was also exonerated in the departmental inquiry initiated subsequent to such discharge. Therefore, the above judgment would not come to the aid of the petitioners.



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20. In *Jaipal Singh* (supra), the Hon'ble Court again held that where the prosecution, which resulted in an acquittal, was not initiated at the behest of the employer or Government Department, and the Government employee was acquitted on appeal, the Department cannot be faulted for keeping him out of service, as the law obliges the Government to remove from service an employee who has been convicted. In the present case, as noted hereinabove, the respondent was not only discharged from the criminal prosecution but was also found not guilty in the departmental inquiry. Therefore, the said judgment also does not support the case of the petitioners.

21. In *Nripen Sharma* (supra), a learned Single Judge of the Gauhati High Court, in similar circumstances, found that the continuation of the suspension was itself unjustified, by observing as under:-

“16. The respondent No. 2 did not consider a very vital aspect of the matter, namely, that though the petitioner was arrested in connection with police case, he was discharged by the learned Chief Judicial Magistrate, Kamrup. The petitioner was also not imposed any penalty in the disciplinary proceeding. Merely because the petitioner was arrested cannot lead to the inevitable conclusion that the suspension is justified, more so, when disciplinary proceedings was not drawn up for almost 10 years after the petitioner was suspended.”

22. For the reason stated hereinabove, we find no infirmity in the order passed by the learned Tribunal. The petition is, accordingly,

