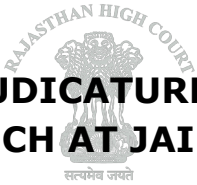




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 5/2015

CNR: RJHC020508342014 | URN: CW / 8U / 2015

Ram Pal Meena S/o Late Ganesh Meena, Bishansinghpura, Tehsil Amer, Jaipur, Class 3, Record Clerk, S.R. No. 140596, Branch Office, L.I.C. Jhotwara, Jaipur

-----Petitioner

Versus

1. Life Insurance Corporation Of India Through Zonal Manager, Jeevan Bharti Tower II, 124, Cannat Circus, New Delhi.
2. Senior Divisional Manager, Divisional Office No. 1, LIC-Jeevan Prakash, Bhawani Singh Marg, Jaipur.
3. Branch Manager, Life Insurance Corporation, Jhotwara, Jaipur

-----Respondents

For Petitioner(s) : Mr. Rajendra Rathore, Adv.,
Mr. Chandra Vikram Singh, Adv. &
Mr. Lokesh Dholpuria, Adv.
For Respondent(s) : Mr. Puneet, Adv.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

REPORTABLE

25/09/2026

1. Petitioner has challenged the order dated 12.02.2014 issued by the Senior Divisional Manager-cum-Disciplinary Authority, whereby while treating the suspension period as period not spent on duty, he has been denied the remaining benefits of suspension period except subsistence allowance. Petitioner has also challenged the order dated 22.11.2014 passed by the Appellate Authority, whereby the appeal filed by the petitioner has been disposed of.



2. It is stated that the petitioner was initially appointed as Class-IV employee in the year 1994 in respondent-Life Insurance Corporation of India. He was thereafter promoted in the year 2006 on the post of Clerk. While he was holding the post of Clerk on account of alleged involvement in the criminal case, he was placed under suspension vide order dated 24.08.2009. During suspension period, he was granted subsistence allowance.

3. It is stated that although, the petitioner was placed under suspension by the respondents, yet no departmental enquiry whatsoever was initiated by the respondent-Corporation, however, the petitioner was kept under suspension during the trial before the Competent Criminal Court.

4. It is further submitted that pursuant to the criminal case lodged against the petitioner, which has got nothing to do with the service related conduct of the petitioner, he was tried by the Competent Criminal Court, where statements of as many as 20 prosecution witnesses were recorded and more than 20 documents were exhibited by the prosecution in support of the charge against the petitioner. The defence also produced witnesses and after examining the evidence on record, the trial Court acquitted the petitioner of the criminal charges on the ground that benefit of doubt was given to him due to failure of the prosecution to prove the charges beyond reasonable doubt.

5. After conclusion of criminal trial and judgment of acquittal, the suspension order was revoked vide order dated 16.01.2014. However, while revoking suspension, it was recorded that as regards, remaining benefits of suspension period a separate order shall be passed.



6. It is the case of the petitioner that thereafter, the Disciplinary Authority passed order dated 29.01.2014, wherein powers under Rule 38 (a) of the Life Insurance Corporation of India (Staff) Rules, 1960 (for short 'the Rules of 1960') were exercised and the period of suspension was treated to be as period spent on duty, accordingly the petitioner was held entitled for full pay and allowances during the suspension period after adjusting the subsistence allowance.

7. Soon thereafter, without giving any notice to the petitioner, the earlier order dated 29.01.2014 was cancelled by the Senior Divisional Manager and instead thereof the order was passed under Rule 38 (b) of the Rules of 1960 on 12.02.2014, wherein it was recorded that although, the suspension period shall not be treated as break in service, yet petitioner shall not be granted remaining benefits of pay and allowances to the petitioner for the said period treating the same as period not spent on duty (absence period).

8. Learned counsel for the petitioner submits that the reason assigned in order dated 12.02.2014 for cancelling the earlier order dated 29.01.2014 and to withdraw the benefits earlier granted, is that as per respondents, since the Criminal Court although acquitted the petitioner of all the criminal charges, yet such acquittal is based upon granting benefit of doubt and was not an 'Honourable acquittal'.

9. Learned counsel for the petitioner submits that the expression 'Honourable acquittal' as mentioned in clause 38(a), cannot be construed so as to deny benefit of the judgment of acquittal, for the reason that the presumption of innocence of the



person is equally restored in the similar manner in both the cases of acquittal irrespective of the fact that whether the expression 'Honourable acquittal' was specially mentioned in the judgment or not. Learned counsel submits that it was not a case where the petitioner was acquitted on any technical ground without conducting trial, and admittedly, he has faced a full-fledged trial where all the witnesses and evidence were meticulously examined by the trial Court. Hence, acquittal in his case cannot be separated from acquittal in any other case, where after conclusion of trial, an expression 'Honourably acquitted' might have been used by the trial Court.

10. Learned counsel submits that even otherwise, Rule 38 (b) of the Rules of 1960 cannot be pressed into service by the respondents, under the circumstances, where no disciplinary enquiry whatsoever is conducted by the respondent-Corporation.

11. Learned counsel submits that once the order dated 29.01.2014 was rightly passed by the Competent Authority under Rule 38(a) of the Rules of 1960, it became functus officio and had no competence whatsoever to recall its own order by subsequent order dated 12.02.2014 so as to cancel the earlier order dated 29.01.2014 and that too, without affording any opportunity of hearing to the petitioner.

12. Learned counsel for the petitioner relied upon the judgment of Bombay High Court in the case of **Shri Sanjay Vs. LIC & Ors. (Writ Petition No.1880/2012, decided on 08.06.2023)**, wherein Rules framed by the respondent-Corporation were interpreted in similar facts and circumstances. He also relied upon judgment of **Dr. Prabhat Kadavat Vs. State**



of Rajasthan & Ors. (S.B. Civil Writ Petition No.2113/2011, decided on 06.05.2014), Food Corporation of India & Ors. Vs. Ved Prakash Malhotra (LPA-54-2018 decided on 19.12.2025), Manickan P. Vs. Kerala State Electricity Board Vidhyuthi Bhavan & Ors. (WP(C) No.26703/2013 decided on 05.02.2019) as well as judgment of this Court in the case of **Harbajan Singh Vs. Superintendent of Police (S.B. Civil Writ Petition No.7146/2003, decided on 14.08.2025)**. Further he relied upon the judgments of Hon'ble Supreme Court in the cases of **State of Rajasthan & Anr. Vs. Mangat Lal Sidana (Civil Appeal No.2365/2022, decided on 23.03.2022)** and **Gurpal Singh Vs. High Court of Judicature of Rajasthan (Writ Petition (Civil) No.200/2006, decided on 27.11.2012)**.

13. *Per contra*, learned counsel for the respondents vehemently opposed the writ petition and submitted that there is no infirmity or illegality whatsoever in impugned order dated 12.02.2014 passed by Senior Divisional Manager, who has rightly applied Rule 38(b) in its true sense.

14. Learned counsel for the respondents submits that earlier order dated 29.01.2014 was passed on account of bona fide error of interpretation of the Rule, as Rule 38(a) was erroneously applied by the respondents. He submits that treatment of the period of suspension cannot be similar in all the cases, where the criminal charges against an employee were concluded in different manner. The respondent-Corporation while framing the Rules have consciously laid down different provisions for different contingencies. In the cases, where sole basis of suspension was lodging of or pendency of criminal case, the



remaining benefits of suspension period, on conclusion of trial, are granted in the context of finality of criminal trial. Learned counsel submits that Rules are explicitly clear, where while consciously using the expression 'Honourably acquitted', the person so benefited by 'Honourable acquittal' has been held entitled to full pay and allowances, which he would be entitled to had he not been suspended. He submits that clause (b) is applicable in other cases i.e. the cases where the acquittal is not based upon the finding of 'Honourable acquittal'.

15. Learned counsel for the respondents submits that although, 'Honourable acquittal' has not been defined under the Rules of respondent-Corporation or in Cr.P.C. or even in BNSS, yet such term has been interpreted time and again by Hon'ble Supreme Court by laying down catena of judgments in this regard. Learned counsel for the respondents heavily relied upon judgments of Hon'ble Supreme Court in the cases of **Krishnakant Raghunath Bibhavnekar Vs. State of Maharashtra & Ors.** reported in **(1997) 3 SCC 636**, **The Deputy Inspector General of Police & Ors. Vs. S. Samuthiram** reported in **(2013) 1 SCC 598**, **Union of India (UOI) & Ors. Vs. Methu Meda** reported in **(2022) 1 SCC 1** and **Union of India (UOI) & Ors. Vs. Jaipal Singh** reported in **(2004) 1 SCC 121** in order to support his contentions.

16. Learned counsel for the respondents further submitted that as long as the expression 'Honourably acquitted' exist under the Rules, without challenging the vires of Rules, no benefit whatsoever can be claimed by the petitioner.



17. Learned counsel for the respondents also submitted that Rule 38(b) is applicable irrespective of the fact as to whether departmental enquiry was conducted against the incumbent or not.

18. Heard learned counsel for the parties and perused the record.

19. Rules of 1960 have been framed by the respondent-Corporation in exercise of powers vested in clause (b) and (bb) of sub-section (2) of Section 49 of the Life Insurance Corporation Act, 1956, with the previous approval of the Central Government. Chapter-III of the Rules deals with conduct, discipline and Appeals. Rule 36 regulates suspension of an employee, whereas Rule 38 governs treatment of the period of suspension.

20. As the controversy arose around Rules 36 and 38 of the Rules, 1960, the same are reproduced hereunder:-

"Suspension:

36. (1) *The appointing authority or any authority to which it is subordinate or any other authority empowered in that behalf (vide Schedule IV) may place an employee under suspension-*

- (a) where a disciplinary proceeding against him is contemplated or is pending; or*
- (b) where a case against him in respect of any criminal offence is under investigation or trial.*

(2) An employee who is detained in custody, whether on a criminal charge or otherwise, for a period exceeding 48 hours shall be deemed to have been suspended with effect from the date of detention, by an order of the appointing authority, and shall remain under suspension until further orders.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee under suspension is set aside on appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.



(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the employee shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

**Provided that no such further enquiry shall be held unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.*

(5) An order of suspension made or deemed to have been made under this rule may at any time be revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

Treatment of the Period of Suspension:

38. When the suspension of an employee is held to be unjustified or not wholly justified; or when an employee who has been dismissed, removed or suspended is reinstated, the disciplinary, appellate, or reviewing authority, as the case may be whose decision shall be final, [under these rules]* may grant to him for the period of his absence from duty-

(a) if he is honourably acquitted, the full pay and allowances which he would have been entitled to if he had not been dismissed, removed or suspended, less the subsistence allowance;

(b) if otherwise, such proportion of pay and allowance as the disciplinary, appellate or reviewing authority may prescribe.

*In a case falling under clause (a), the period of absence from duty will be treated as a period spent on duty. [In a case falling under clause (b), the period of absence shall not be treated as a period spent on duty, but the disciplinary, appellate or the reviewing authority may, at its discretion, grant leave for the period to the extent admissible to the employee under the rules; any period of absence which has not been treated as period spent on duty or on leave shall not count as service for any purpose under these Rules but will not constitute break in service.]***

No order passed under this rule shall have the effect of compelling any employee to refund the subsistence allowance payable under rule 37."

21. Bare perusal of the above would make it clear that Rule 36 primarily empowers the Competent Authority to place an employee under suspension under two contingencies, (i) where disciplinary proceedings are contemplated or pending, or (ii)





where a criminal case against him is under investigation or trial. It further provides for deemed suspension in specified circumstances including detention in custody for more than 48 hours. The Rule also confers power upon the Competent Authority to revoke an order of suspension any time.

22. Facts are almost undisputed that the petitioner was placed under suspension solely on the ground of his involvement in the criminal case and admittedly, no departmental enquiry whatsoever was initiated against him.

23. After conclusion of trial against the petitioner, whereby the petitioner was acquitted of all the charges, the respondents revoked the suspension order and even after revocation, disciplinary enquiry was not initiated. It was mentioned in the order of revocation dated 16.01.2014 that the decision with regard to granting remaining benefits of suspended period shall be taken separately.

24. Thereafter, the order dated 29.01.2014 was issued by the Competent Authority under Rule 38(a) for treating the entire suspension period as spent on duty and accordingly, the petitioner was held entitled for full pay and allowances during the suspension period. Grievance of the petitioner arose when the subsequent order dated 12.02.2014 was issued by the Senior Divisional Manager in order to cancel the earlier order dated 29.01.2014 and instead of applying sub clause (a) of Rule 38, he exercised powers under clause (b) of Rule 38 so as to deny the benefit of pay and allowances to the petitioner during the suspension period except the subsistence allowance already paid to him.



25. Contention of learned counsel for the respondents that earlier order dated 29.01.2014 was resultant of a bona fide mistake, which crept into the proceedings on account of misconstruction of the Rules. He emphasised that clause (a) of Rule 38 is confined to the cases, where the employee was 'acquitted Honourably' by the Competent Criminal Court and in case, there is no 'Honourable acquittal', in other cases clause (b) shall apply.

26. This Court carefully examined both clauses (a) and (b) of Rule 38 along with other provisions of the Rules of 1960 and finds that although, the term 'Honourably acquitted' has been used in clause (a), yet it is a matter of fact that the term 'Honourable acquittal' has nowhere been defined in the Rules of 1960. Similarly, the aforesaid expression 'Honourable acquittal' has nowhere been used in Cr.P.C. and BNSS.

27. On close scrutiny of both clauses (a) and (b) of Rule 38 in the context of two contingencies prescribed under Rule 36 for placing an employee under suspension, this Court finds that clause (a) of Rule 38 is exclusively related to the cases, where the employee was placed under suspension due to criminal case and the benefits are to be paid upon revocation of suspension after acquittal by the Competent Criminal Court. Whereas, language employed in clause (b) of Rule 38 makes it clear that it would apply in the cases not covered by clause (a) of Rule 38. Thus, the words employed in clause (b) apparently reveals the intent of Rule making authority that clause (b) shall apply only in the cases, where there is role of Disciplinary, Appellate or Reviewing Authority, thus, this clause is confined only to the cases, where



disciplinary enquiry was initiated by the authorities, however, shall not apply in the cases, where suspension or deemed suspension took place on account of detention or where the employee was facing criminal trial, however, was subsequently acquitted.

28. It is also equally true that although, the expression 'Honourable acquittal' has not been defined either in Code of Criminal Procedure or in Bharatiya Nagarik Suraksha Sanhita, yet the same has been explained by the Hon'ble Apex Court in its so many decisions. In the case of **S. Samuthiram (supra)**, the Hon'ble Supreme Court held as under:-

"24. The meaning of the expression "honourable acquittal" came up for consideration before this Court in RBI v. Bhopal Singh Panchal⁶. In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions "honourable acquittal", "acquitted of blame", "fully exonerated" are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression "honourably acquitted". When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted."

29. After relying upon judgment of Hon'ble Supreme Court in the case of **S. Samuthiram (supra)**, Bombay High Court in the case of **Shri Sanjay (supra)** examined the extent and scope of Rule 38 of the Rules of 1960 and thereafter, observed as under:-

"11. It is not the case that the petitioner has been acquitted merely on technical grounds. It is a matter of record that the petitioner has been acquitted after a full-fledge trial and after full consideration of the prosecution's evidence and material available on record. No departmental Inquiry was initiated by the respondents. The respondents have passed the order refusing grant of full pay and allowances for the period of suspension of the petitioner on the ground that the petitioner has been acquitted by extending benefit of doubt by the learned Additional Sessions Judge. The last sentence





"the accused are entitled for acquittal by extending benefit of doubt" cannot be read in isolation dehors of the other findings given by the learned Additional Sessions Judge. The said phrase is to be read with other material and evidence discussed by the learned Trial Court.

12. We have perused the order of acquittal dated 15.01.2004 and we find that with regard to charge against the petitioner (accused no. 2), a specific point has been framed by the learned Additional Sessions Judge i.e. points for determination no. 2, wherein the allegation and evidence produced by the prosecution has been discussed thoroughly and specific findings have been given that just because there were telephonic talks between the petitioner and other accused and the absence of the petitioner from duty, it cannot be inferred that the petitioner has supplied Ganja Seeds to other accused persons. The learned Additional Sessions Judge answered to the point of determination that whether the prosecution proved that the petitioner supplied Ganja Seeds to accused no. 3 therein, in negative. In the concluding part also, it has been held by the learned Additional Sessions Judge that the prosecution failed to establish that the petitioner supplied Ganja Seeds to accused no. 3. Just because while parting with the judgment, the learned Additional Sessions Judge in last line has mentioned that the accused persons, possibly may be in respect of other accused than the petitioner, are entitled for acquittal by extending benefit of doubt, it does not mean that the petitioner has not been acquitted honourably. Just because the learned Additional Sessions Judge did not use the word "honourable acquittal", it cannot be said that the petitioner has not been acquitted honourably. Rather, we have never come across such words 'honourble acquittal' in judgments of acquittal in a criminal trial.

13. As held in the case of **S. Samuthiram (supra)**, since the petitioner has been acquitted on merit after a full-fledge trial and after full consideration of the prosecution's evidence, particularly, when the learned Additional Sessions Judge recorded the findings that the prosecution failed to prove charge against the petitioner, it can be said that the petitioner was honourably acquitted.

14. In that view of the matter, we do not find any force in the submissions of the learned counsel for the respondents. The order dated 13.05.2011 passed by respondent 3 refusing to grant full pay with allowances during the suspension period of the petitioner is not correct and it does not stand. Therefore, the communication/order dated 13.05.2011 issued by respondent 3 is hereby quashed and set aside.

15. Consequentially, the respondents are directed to release and pay the full pay and allowances payable to the petitioner from 15.09.2000 to 25.01.2001 (both days inclusive) alongwith interest @ 6% per annum till its realization. The Writ Petition is allowed."

30. This Court finds that in Food Corporation of India (Staff) Regulations, 1971 similar clauses are there in Regulation





66 (8) (a) and (b) and in that case also the similar question arose as in this case, that when the Competent Criminal Court while acquitting the employee did not use the expression 'Honourably acquitted', then whether the employee would be entitled for full pay and allowances during suspension period or not. The Punjab & Haryana High Court in the case of **Ved Prakash Malhotra (supra)** observed as under:-

"15. At the outset, we would like to observe that we find merit in the submission of the learned counsel for the appellants, that the relevant regulations were required to be taken into consideration while taking a decision regarding how the period of absence from duty is to be treated, after the respondent's acquittal in the criminal case. It is, therefore, apposite to examine Regulation 66(8)(a) & (b) of the 1971 Regulations, which is reproduced as under:

"(8) When the suspension of an employee is held to be unjustified or not wholly justified; or when an employee has been dismissed or suspended is reinstated, the disciplinary, appellate or reviewing authority, as the case may be, whose decision shall be final, may grant to him for the period of his absence from duty:

(a) if he is honourably acquitted, the full pay and allowances other than conveyance allowance to which he would have been entitled, if he had 7 of 14 LPA-54-2018 (O&M) not been dismissed or suspended, less the subsistence grant;

(b) if otherwise, such proportion of pay and allowances other than conveyance allowances as the disciplinary, appellate or reviewing authority may prescribe. In a case falling under clause (a), the period of absence from duty will be treated as a period spent on duty. In a case falling under clause (b) it will not be treated as a period spent on duty unless the disciplinary, appellate or reviewing authority, as the case may be, whose decision shall be final, so directs."

16. Careful perusal of the above regulation would show that the competent authority is vested with the power to form an opinion whether the suspension was justified or unjustified or not wholly justified. If it finds it to be justified then no benefits are to be granted for the suspension period. However, in the case where the authority finds it to be unjustified or not wholly justified, then in the case of 'honourable acquittal' pay and allowance as per Regulation 66 (8) (a) is to be paid and the period of absence from duty has to be treated as period spent on duty. In the cases where the acquittal is granted by giving benefit of doubt, regulation (b) would come into play and it will be open to such authority to direct the payment of proportional pay and allowances as it may prescribe. The period of absence will





not be treated as period spent on duty, unless the concerned authority so directs.

17. Perusal of the order dated 10.11.2015 (Annexure P-9) passed by the concerned authority would show that the decision to treat the period of suspension as period not spent on duty is based upon the premise that the acquittal of the respondent vide judgment dated 20.08.2014 was allowed by giving him the benefit of doubt. By holding that such acquittal would not come 8 of 14 LPA-54-2018 (O&M) within the meaning of an honourable acquittal as stipulated under Regulation 66(8)(a) of the 1971 Regulations, the authority has observed that in view of the nature of charge brought against the respondent and since the acquittal in appeal was by giving him the benefit of doubt, there was no justification to treat the period of absence as period spent on duty.

20. Undoubtedly, the power to form an opinion regarding justification or otherwise of suspension of an employee and decision regarding treatment of suspension period vests upon the competent authority, as per Regulation 66(8)(a) & (b) of the 1971 Regulations, and the same would not be interfered with as a matter of routine. However, that does not mean that such opinion or decision, would not be amenable to judicial review, even if it is found in a given case that the same is based upon non-application of mind, incorrect appreciation of facts involved; is arbitrary; or is not a 'possible view'. That cannot be the correct 13 of 14 LPA-54-2018 (O&M) import of the law laid down in the case of **Greater Hyderabad Municipal Corporation supra** as sought to be projected by the Appellants. The powers of the authority cannot be unbridled and it will always be open to a Writ Court to examine, if the same warrants interference in the facts and circumstances of a given case."

31. In the case of **Methu Meda (supra)**, the Hon'ble Supreme Court has again considered the different expressions used at the time of acquitting an accused in a criminal case and has thereafter held as under:-

"10. While addressing the question, as argued the meaning of expression "acquittal" is required to be looked into. The expressions "honourable acquittal", "acquitted of blame" and "fully acquitted" are unknown to the Code of Criminal Procedure or the Penal Code, 1860. It has been developed by judicial pronouncements. In *State of Assam v. Raghava Rajgopalachari*¹¹, the effect of the word "honourably acquitted" has been considered in the context of the Assam Fundament Rules (FR) 54(a) for entitlement of full pay and allowance if the employee is not dismissed. The Court has referred to the judgment of *Robert Stuart Wauchope v. Emperor*¹², in the context of expression "honourably acquitted", Lort-Williams, J. observed as thus : (Robert Stuart Wauchope case¹², SCC OnLine Cal)

"The expression "honourably acquitted" is one which is unknown to courts of justice. Apparently it is a form of order used in courts martial and other extra-





judicial tribunals. We said in our judgment that we accepted the explanation given by the appellant, believed it to be true and considered that it ought to have been accepted by the government authorities and by the Magistrate. Further we decided that the appellant had not misappropriated the monies referred to in the charge. It is thus clear that the effect of our judgment was that the appellant was acquitted as fully and completely as it was possible for him to be acquitted. Presumably, this is equivalent to what the government authorities term "honourably acquitted"."

12. *In view of the above, if the acquittal is directed by the court on consideration of facts and material evidence on record with the finding of false implication or the finding that the guilt had not been proved, accepting the explanation of accused as just, it be treated as honourable acquittal. In other words, if prosecution could not prove the guilt for other reasons and not "honourably" acquitted by the court, it be treated other than "honourable", and proceedings may follow."*

32. In the backdrop of the facts of the present case as well as on the basis of above principles laid down by the Hon'ble Supreme Court, this Court finds that in the present case, employee was placed under suspension solely on account of his implication in criminal case, which ultimately culminated in acquittal of the petitioner. As observed hereinabove, the Rules of 1960 does not draw a distinction between the 'Honourable acquittal' and acquittal for any other reason. In any event the presumption of innocence of the employee stands restored upon his acquittal and in both the cases, he stands absolved of any disqualification, if any, attached to the criminal charge.

33. There is yet another aspect of the matter, in the cases, where an employee upon conclusion of criminal trial is benefited by Sections 3 or 4 of the Probation of Offenders Act, 1958 (for short 'the Act of 1958'), then in that case, notwithstanding the fact that the employee has suffered conviction, yet all the benefits related to the service shall be released to him by virtue of operation of Section 12 of the Act of 1958. Thus, it would be quite





anomalous and legally untenable situation, where at the one hand a person like petitioner is there, who has been acquitted of all the criminal charges, yet the benefits have been withheld by the respondents narrating his acquittal as not Honourable and while on the other hand, in spite of there being a sustained conviction in the record of another employee, yet he was granted benefit of probation by the Competent Court, he cannot be deprived of the benefits arising out of his service conditions, including the benefits during suspension period. Thus, under the circumstances, where there is no legally sustainable difference between 'acquitted Honourably' and an acquittal for any other reason, for the purpose of grant of service benefits, this Court finds that the respondents have wrongly interpreted Rule 38(a) of the Rules of 1960. The petitioner is entitled for all the benefits including full pay and allowances during the aforesaid suspension period.

34. Accordingly, the writ petition filed by the petitioner is hereby allowed. The order dated 12.02.2014 as well as appellate order dated 22.11.2014 are hereby quashed and set aside. Earlier order dated 29.01.2014 is hereby restored. The petitioner is held entitled for treating the suspension period from 24.08.2009 to 09.01.2014 as period spent on duty for all practical purposes including full pay and allowance. He shall also be entitled for all other consequential benefits. The respondents are directed to make compliance of this order within a period of 60 days from the date of receipt of certified copy of this order.

35. Pending application(s), if any, stand(s) disposed of.

(ANAND SHARMA),J

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