

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6777 of 2025

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Janardan Singh, son of Late Kamdeo Singh, Resident of Village- Malpur, P.S.-
Maranchi, District-Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Addl. Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Addl. Chief Secretary, Department of Education, Bihar, Patna.
3. The Director, Primary Education, Department of Education, Bihar, Patna.
4. The Regional Deputy Director of Education, Patna Division, Patna, Bihar.
5. The District Education Officer, Patna.
6. The District Programme Officer (Estab), District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binod Kumar, Advocate
		Mr. Sanjay Kumar, Advocate
For the State	:	Ms. Sunita Kumar, AC to AAG- 13
	:	Mr. Siddhartha Prasad, Amicus Curiae

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 12-01-2026

This Court has heard Mr. Binod Kumar, learned Advocate for the petitioner and Ms. Sunita Kumar, learned Advocate for the State. Mr. Siddhartha Prasad, learned Advocated appeared as *Amicus Curiae* in pursuant to the order of this Court to assist on the point of law.

2. The challenge in the present writ petition is made to an order dated 16.09.2010 contained in Memo No. 4093, issued by the District Superintendent of Education, Patna by



which the services of the petitioner as Assistant Teacher was dismissed under Rule 20(1) of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Rules, 2005'). The petitioner also sought a direction upon the respondents to grant all consequential benefits, including salary, pensionary benefits, gratuity, leave encashment, arrears of pension with interest for the period of service up to the date of retirement by calculating on the basis of last pay scale.

3. Briefly stated, the petitioner was appointed as an Assistant Teacher in Government Middle School on 06.04.1982 and served without any adverse entries until he became an accused in a criminal prosecution arising out of Maranchi P.S. Case No. 17 of 2002 for the offences punishable under Sections 302/34 of the Indian Penal Code. The petitioner was finally convicted by the trial court vide judgment dated 21.12.2009 and taken into custody after conviction.

4. Aggrieved with the judgment of conviction, the petitioner preferred Criminal Appeal (DB) No.232 of 2010 before this Court. During the pendency of the Appeal his sentence and fine were stayed and enlarged on bail by the Appellate Court. In the aforesaid premise, the petitioner sought



permission to rejoin his duty on 13.03.2010. In response thereof, the District Superintendent of Education, Patna called for a report. Further, the petitioner was asked to serve show-cause under letter no. 1669 dated 18.03.2010. The petitioner submitted his explanation/reply on 29.03.2010 with categorical assertion that the Appellate Court had stayed the sentence and enlarged him on bail during the pendency of the appeal. However, the reply of the petitioner did not find favour and the District Superintendent of Education, Patna issued an order dismissing the petitioner from service 16.09.2010 as contained in Memo No. 4093 (Annexure-P/4 to the writ petition), which is impugned herein.

5. The petitioner challenged the dismissal order by filing C.W.J.C. No. 13280 of 2011, which was disposed of on 07.03.2012 with a liberty to seek reinstatement, if the petitioner is exonerated by the Appellate Court (Annexure-P/5). Subsequently, the learned Division Bench of the High Court allowed the appeal and acquitted the petitioner, as the prosecution has failed to prove the charges beyond reasonable doubt and the petitioner was discharged vide order/judgment dated 20.08.2024.

6. Strengthening, with the order of acquittal, afore



noted, the petitioner represented before the District Programme Officer (Establishment), Patna, District Education Office, Patna on 14.10.2024 seeking review of the order dated 16.09.2010, but no action has been taken. In the meanwhile, the petitioner has also attained the age of his superannuation in the year 2016 and has received amount of only GPF and GLI and his demand for pension, gratuity and leave encashment was not accepted. This Court is also apprised that the petitioner is a physically challenged and presently is undergoing treatment at Tata Memorial Hospital, Mumbai.

7. Learned Advocate for the petitioner referring to the aforesaid facts, especially the judgment passed by the learned Division Bench whereby the petitioner has been acquitted and discharged vide order/judgment dated 20.08.2024 submitted that once the very basis of the impugned order of dismissal is no more in existence and taken away by a competent Court, the petitioner cannot be deprived from all the service benefits including pension and other retiral benefits.

8. On the other hand, learned Advocate for the State submitted that the order of punishment of dismissal is though based on judgment of conviction passed by the trial court and the same has now been set aside, but bare perusal of the



order/judgment dated 20.08.2024 it clearly shows that merely by offering the benefit of doubt, the learned Division Bench has set aside the judgment of conviction and sentence of the petitioner. So far the dismissal of the petitioner from service is concerned, the same was passed after considering the reply to the show-cause and, as such, he was entitled for only Provident fund amount and Group Insurance, for the period he has worked. The petitioner has not been granted clean acquittal and, as such, he is not entitled to get any monetary benefit, including the arrears of salary and pensionary or other benefits. In the aforesaid premise, learned Advocate for the State prays for dismissal of the writ petition.

9. Before proceeding further, it would be pertinent to take note of the fact that vide order dated 18.11.2025, this Court having considered the significance of the issue involved in the writ petition had requested Mr. Siddhartha Prasad, learned Advocate to assist the Court as *amicus curiae*.

10. Learned *Amicus Curiae* while assisting the Court on the point of law in order to answer the issue “as to whether an employee, who had been charged with a heinous offence and convicted during his service period leading to his dismissal from service can after having been acquitted by the



Appellate Court is entitled to get the consequential benefits upon reconsideration of his order of dismissal”, has taken this Court through the various decisions of the Apex Court.

11. Primarily referring to a decision rendered in the case of *Ranchhodji Chaturji Thakore Vs. Superintendent Engineer, Gujarat Electricity Board*, reported in, (1996) 11 SCC 603 it is submitted that the Apex Court while considering identical situation where an employee was dismissed from service solely on account of his conviction under Sections 302/34 of the Indian Penal Code. After his subsequent acquittal by the High Court, reinstatement was granted, but the employee also claimed back wages. The Supreme Court categorically held that although reinstatement must follow an acquittal since dismissal was based only on conviction under the statutory rules, but the employee is not entitled to back wages, as he had disabled himself from service due to his own involvement in a criminal case and incarceration. The Court observed that “the question of back wages would arise only if the disciplinary action was independently taken and found to be unsustainable. Where the employee could not render service because of his conviction and imprisonment, back wages cannot be granted.” The appeal was accordingly dismissed.



12. In *Union of India & Others Vs. Jaipal Singh*, reported in, (2004) 1 SCC 121, the Supreme Court dealt with a fact that the employee who had been dismissed from service upon conviction under Section 302/34 of Indian Penal Code and was later acquitted in appeal. The High Court directed his reinstatement with full back wages, but the Supreme Court modified the same by holding that while reinstatement must follow an acquittal, since dismissal solely was based on conviction, the employee cannot claim back wages for the period between conviction and acquittal. Relying on *Ranchhodji Chaturji Thakore* (supra) the Apex Court reiterated that where the prosecution was not initiated by the employer and the employee's absence was a result of his own criminal involvement and conviction, the department cannot be faulted or burdened with paying wages for the period when his service was legally interrupted. The Apex Court clarified that back wages would accrue only from the date of acquittal and the earlier period would merely count for continuity of service but without monetary benefits.

13. Similarly, in the case of *Baldev Singh Vs. Union of India*, reported in, (2005) 8 SCC 747, reiterating the settled principle the Apex Court held that mere acquittal in a



criminal case does not entitle an employee to arrears of salary or pension during the period he did not actually serve. The appellant, a soldier, had been dismissed upon conviction and later on acquitted has sought pay and pension benefits for the entire period from arrest to discharge. The Court rejected the claim by holding that the principle of “no work, no pay” squarely applies, and subsequent acquittal does not erase the fact that he was absence from service due to his own involvement in the criminal case.

14. In *Banshi Dhar Vs. State of Rajasthan*, reported in *(2007) 1 SCC 324*, the Apex Court further reiterated and crystallized that grant of back wages upon acquittal is not automatic and must be determined on the facts of each case. The appellant was prosecuted for corruption under Section 5(1)(d) of the Prevention of Corruption Act read with Section 161 of the Indian Penal Code, placed under prolonged suspension, and later on dismissed upon conviction. Though he was ultimately acquitted, by that time he had already reached the age of superannuation and no departmental inquiry could be held. The Apex Court noted that the appellant remained under suspension for nearly 11 years, received subsistence allowance, and performed no work during the entire period. While he was



granted continuity for pensionary benefits under the Rajasthan Pension Rules, the Court held that back wages cannot be claimed as a matter of right, especially where serious charges were involved and the employee had not actually rendered service. Distinguishing *Ranchhodji Chaturji Thakore* (supra) but following the principle that each case turns on its own facts, the Apex Court held that acquittal does not automatically exonerate the employee or entitle him to full back wages and dismissed the appeal.

15. In *State Bank of India Vs. Mohammed Abdul Rahim*, reported in, (2013) 11 SCC 67, the respondent, an Assistant (Accounts) in SBI was convicted under Section 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, which led to his dismissal from service. However, in appeal, the Sessions Court acquitted him on the finding that the prosecution had failed to prove the charges beyond reasonable doubt. The respondent (Assistant) was reinstated but denied back wages, leading him to file a writ petition, which was allowed by the Single Judge and affirmed by the Division Bench. In appeal, the Apex Court on examination of Section 10(1)(b)(i) of the Banking Regulation Act, 1949, which imposes a statutory bar on a banking company



from employing or continuing to employ a person convicted of an offence involving moral turpitude, holding that the respondent's conviction though later continued to exist on record and legally prevented the Bank from employing him during that period. The Apex Court clarified that while acquittal obliterates the conviction, it does not retrospectively erase the legal consequences flowing from the period when the conviction stood. The Court distinguished earlier cases such as ***Ranchhodji Chaturji Thakore. Jaipal Singh, Baldev Singh***, and referred to ***Banshi Dhar***, reiterating that grant of back wages is never automatic and must depend on the facts of each case. The Apex Court set aside the High Court's direction for full back wages, however, he found entitled to wages only from the date he raised a formal demand for reinstatement.

16. Mr. Prasad, learned *Amicus Curiae*, finally referred a decision of the learned Division Bench of this Court rendered in the case of ***Bhagwan Ram Vs. The State of Bihar & Ors.*** in L.P.A. No. 322 of 2020. In the said case also, the employee was dismissed solely on the basis of a criminal conviction and no separate departmental inquiry was conducted. The conviction was subsequently set aside and the employee was acquitted by the Hon'ble Supreme Court on benefit of



doubt.

17. The learned Division Bench referring to the various decisions of the Apex Court held that where the dismissal is exclusively predicated on conviction and the conviction is later set aside, the dismissal order have to be quashed and the employee will be entitled to retiral/post-retiral benefits, although back wages for the intervening period may legitimately be denied where the employee had not rendered service during that time and/or had already attained superannuation before acquittal.

18. Now coming to the case at hand, it is writ large that the dismissal of the petitioner was strictly in terms with the mandate contained under Section 20(i) of the Rules, 2005, which provides that where a Government servant is convicted on a criminal charge, the disciplinary authority may impose upon him any of the penalties specified in the Rules without holding any further departmental inquiry. The aforesaid Rule clearly empowers the authority to act solely on the basis of the conviction, and the punishment of dismissal, removal or reduction in rank can be imposed automatically upon recording of conviction by a competent criminal court.

19. Indubitably, the action of the respondents in



inflicting the punishment of dismissal is in consonance with Section 20(i) of the Rules, 2005, and in conformity with Clause (a) of the second proviso to Article 311(2) of the Constitution of India, which clearly stipulates that where a government servant is dismissed, removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge, the constitutional requirement of holding a departmental inquiry stands dispensed with. Thus, once the petitioner was convicted by the criminal court, the respondents were constitutionally and statutorily empowered to terminate his services without any further enquiry, hence the respondents acted strictly under the afore noted provisions and the impugned order of dismissal was a natural consequence of the conviction recorded by the trial court.

20. However, this Court would fail in its duty if the submission of the respondent is not answered that the petitioner is not entitled for any monetary benefit since his acquittal is not honourable, rather based on benefit of doubt. It would be pertinent to take note of that the expressions like “benefit of doubt” and “honourably acquitted”, used in judgments are not to be understood as magic incantation. The Apex Court in the case of **Ram Lal v. State of Rajasthan & Ors., [(2024) 1 SCC**



175], has cautioned that a Court of law will not be carried away by the mere use of such terminology. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after the reading of the judgment in its entirety. The Court, in judicial review, is obliged to examine the substance of the judgment and not go by the form of expression used.

21. Besides the facts as noted, in the present case, a bare perusal of the order passed by the learned Division Bench of this Court, it is evident that the appeal has been allowed after full consideration of the prosecution evidence. Above all, this Court cannot lose sight of the fact that the order of dismissal is not based upon any independent disciplinary proceeding, rather strictly in terms with the mandate of Section 20(1) of the Rules, 2005, followed by conviction led by the learned Trial Court. The plea of the respondent would only be relevant if acquittal is on account of flawed prosecution but departmental inquiry and resultant punishment is based on adequate evidence. In the present case, such plea has not so much of relevance.

22. Once this Court finds that the order of punishment of dismissal is purely based upon primarily criminal



case and no disciplinary action was independently taken and finally the appeal against the conviction ended in acquittal by the competent appellate court, the dismissal order based on conviction lost its effect. Accordingly, the impugned order, as contained in Memo No. 4093, dated 16.09.2010, issued by the District Superintendent of Education, Patna is hereby set aside.

23. Since during the interregnum period, the petitioner attained his age of superannuation, thus the question of reinstatement does not arise and only post-retiral benefits remains to be answered.

24. The judicial precedents and the rulings noted hereinabove categorically denied back wages for the period between dismissal and acquittal unless the prosecution was initiated by the Department independently, which is not the case here, the petitioner is hereby granted notional continuity of service for the limited purpose of computing benefits such as pension, gratuity, leave encashment and other admissible dues available under the Rules. However, the petitioner is held to be not entitled to back wages, salary, arrears or other monetary benefits for the period he remained out of service following his conviction.

25. The writ petition stands allowed to the extent



indicated hereinaove. The parties shall bear their own cost.

26. Mr. Siddhartha Prasad, learned *Amicus Curiae* was appointed in the case to assist this Court. I put on record my words of appreciation for able assistance rendered by him. As a token of appreciation, this Court directs the Patna High Court Legal Services Committee to pay a sum of Rs.5,000/- (Rupees Five Thousand Only) to him towards his professional fees.

(Harish Kumar, J)

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