

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 6437/2024

Rajendra Prasad Kudi S/o Shri Narayan Lal Kudi, Aged About 30
Years, Village Karnipura, Post Khachariyawas, Tehsil
Dataramgarh, District Sikar.

-----Petitioner

Versus

1. The State Of Rajasthan, Through The Special Secretary,
Department Of Revenue, Government Of Rajasthan,
Secretariat, Jaipur.
2. District Collector, Udaipur, Collectorate Rd, Near Delhi
Gate, Shakti Nagar, Udaipur, Rajasthan.

-----Respondents

For Petitioner(s)	: Mr. Mahendra Vishnoi.
For Respondent(s)	: Mr. S.R. Paliwal, G.C.

HON'BLE DR. JUSTICE NUPUR BHATI
Order

08/05/2026

1. This writ petition has been filed by the petitioner under
Article 226 of the Constitution of India, with the following
prayers:-

- i. Impugned order dated 20.08.2018 (Anx P/8) may kindly
be declared illegal and the same may kindly be quashed and
set aside;
- ii. Respondents may kindly be directed to provide
reinstatement / joining to the petitioner with all
consequential benefits.
- iii. Respondents may kindly be directed to release all the
pending subsistence allowances to the petitioner with all
consequential benefits prior to the passing of the order of
dismissal.
- iv. any other appropriate relief (s), which this Hon'ble High
Court deems just and proper in the facts and circumstances of
the case, may kindly be granted in favour of the petitioners;
- v. writ petition of the petitioners may kindly be allowed
with costs."

2. Brief facts of the case are that the petitioner was appointed on the post of Patwari in the year 2012 after qualifying the Patwar Competitive Examination, 2011 and was thereafter sent for training at Debari, Udaipur vide order dated 14.06.2012 (Annex.P/1). Subsequently, an FIR came to be lodged against the petitioner at Police Station Fatehgarh on 22.02.2016 and pursuant to his arrest, the petitioner was placed under suspension vide order dated 02.05.2016 (Annex.P/2) on account of detention exceeding 48 hours, with headquarters fixed at Tehsil Office, Kotda. Though the suspension order provided for payment of subsistence allowance, the same was never paid to the petitioner. Thereafter, the learned trial court vide judgment dated 28.02.2018 (Annex.P/3) convicted the petitioner in the criminal case, against which the petitioner preferred a criminal appeal and also submitted a representation dated 27.04.2018 (Annex.P/4) requesting the respondents not to terminate his services during pendency of the appeal. However, during pendency of the appeal, the respondents dismissed the petitioner from service vide order dated 20.08.2018 (Annex.P/8) under Rule 19(1) of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 without conducting any departmental inquiry. Subsequently, the appellate court vide judgment dated 25.02.2022 (Annex.P/5) allowed the appeal preferred by the petitioner and quashed and set aside the judgment of conviction dated 28.02.2018 (Annex.P/3), thereby acquitting the petitioner of all charges. Thereafter, the petitioner submitted representation dated 07.03.2022 (Annex.P/6) seeking reinstatement in service and revocation of suspension, however, despite repeated representations, the respondents neither

reinstated the petitioner nor passed any speaking order. The petitioner was later supplied a copy of the dismissal order dated 20.08.2018 (Annex.P/8) and came to know that the same had been passed on the basis of conviction despite pendency of appeal. The petitioner further came to know that the dismissal order was based upon circular dated 31.12.1996 (Annex.P/9), which itself provides that where a government employee is acquitted in appeal and exonerated from charges, the order of dismissal/removal is liable to be set aside. Being aggrieved, the petitioner earlier preferred S.B. Civil Writ Petition No. 11988/2023, which was disposed of vide order dated 06.09.2023 (Annex.P/10) directing the respondents to consider the representation of the petitioner, pursuant where to the petitioner submitted representations dated 15.09.2023, 22.11.2023, 22.12.2023 and 03.01.2024 (Annex.P/11 collectively), however, no decision has been taken by the respondents till date. Although the State has preferred leave to appeal against the acquittal judgment dated 25.02.2022 (Annex.P/5), no interim order has been passed therein and the acquittal of the petitioner continues to operate. Hence, being aggrieved by the dismissal order dated 20.08.2018 (Annex.P/8), non-reinstatement in service and non-payment of subsistence allowance during the suspension period, the petitioner has preferred the present writ petition.

3. Learned counsel for the petitioner submits that the petitioner came to be falsely implicated in a criminal case, on account of which, he was placed under suspension vide order dated 02.05.2016 (Annex.P/2). He submits that thereafter the petitioner was convicted by the competent criminal court vide judgment

dated 28.02.2018 (Annex.P/3), against which the petitioner preferred a criminal appeal and the said appeal came to be allowed vide judgment dated 25.02.2022 (Annex.P/5), whereby the conviction of the petitioner was quashed and set aside and the petitioner was acquitted of all charges.

4. While drawing attention of this Court towards Circular dated 31.12.1996 (Annex.P/9), learned counsel for the petitioner submits that once the conviction of the petitioner stood set aside by the appellate court, the very foundation of the dismissal order cannot survive and, therefore, the respondents were under a legal obligation to revoke the order of dismissal and reinstate the petitioner in service forthwith. He further submits that despite the specific policy decision contained in the aforesaid circular, the respondents have utterly failed to comply with their own circular and have illegally denied reinstatement to the petitioner.

5. Per contra, learned counsel for the respondents submits that though the petitioner has been acquitted vide judgment dated 25.02.2022 (Annex.P/5), the State has preferred a criminal appeal before this Court challenging the order of acquittal and the said appeal is still pending adjudication. It is submitted that in view of pendency of the aforesaid criminal appeal, the respondents did not deem it appropriate to revoke the dismissal order and reinstate the petitioner in service.

6. Learned counsel for the respondents, however, is not in a position to dispute the fact that the petitioner has been acquitted in the criminal case vide judgment dated 25.02.2022 (Annex.P/5) and that no interim order/stay has been granted in the appeal preferred by the State against the order of acquittal.

7. I have considered the submissions made by learned counsel for the respective parties and have perused the material available on record.

8. Upon perusal of Circular dated 31.12.1996 (Annex.P/9), it is reflected that under Clause 7 sub-clause (4), a specific policy decision has been taken by the respondents themselves to the effect that if an appeal/revision against conviction is allowed and the government employee is acquitted, then all orders of dismissal, removal from service or compulsory retirement based upon such conviction, which no longer survives, are liable to be set aside and the employee concerned is required to be reinstated in service. The underlying object of the aforesaid policy is that once the very basis of the order of dismissal i.e. conviction, ceases to exist, the consequential punitive action founded solely upon such conviction cannot be permitted to continue independently.

9. For ready reference, relevant clause of the aforesaid Circular is reproduced hereunder:-

"7. xxx xxx xxx
1 to 3. xxx xxx

4. यदि दोष सिद्धि के विरुद्ध कोई अपील/पुनरीक्षण मान लिया जाता है और सरकारी कर्मचारी को दोषमुक्त कर दिया जाता है, तो उसकी ठहरी न रह (which no longer stands) सभी दोष सिद्धि पर आधारित पदच्युति, सेवा से हटाने या अनिवार्य सेवानिवृत्ति के आदेश अपास्त किये जाने योग्य होंगे। अपीलीय न्यायालय के निर्णय की एक् प्रति तुरन्त प्राप्त की जानी चाहिए तथा यदि आवश्यक हो तो विधि विभाग से परामर्श करके निम्नलिखित बिन्दुओं को विनिश्चित करने की दृष्टि से उसकी परीक्षा की जानी चाहिए "

10. In the considered opinion of this Court, the respondents, without any justifiable reason, have failed to revoke the order of dismissal despite acquittal of the petitioner and a wholly untenable

ground has been assigned by the respondents in order dated 11.03.2024 (Annex.R/1), whereby the representation of the petitioner came to be rejected merely on the premise that the State has preferred a criminal appeal before this Court being CRLAS No.1236/2025 (State of Rajasthan Vs. Rajendra Prasad). Mere pendency of an appeal against acquittal, in absence of any interim order staying operation of the judgment of acquittal, cannot be a valid ground to deny reinstatement to the petitioner, particularly when the dismissal order itself was founded solely upon the conviction which no longer survives.

11. Learned counsel for both the parties jointly submit that the aforesaid criminal appeal is still pending adjudication before this Court and admittedly no interim order has been passed therein. In view thereof, the judgment of acquittal dated 25.02.2022 (Annex.P/5) continues to remain operative and binding. Consequently, taking into consideration the mandate contained in Clause 7(4) of Circular dated 31.12.1996 issued by the Department of Personnel, State of Rajasthan, this Court deems it appropriate to quash and set aside the order of dismissal dated 20.08.2018 (Annex.P/8) as well as order dated 11.03.2024 (Annex.R/1), whereby the representation of the petitioner came to be rejected.

12. Accordingly, the writ petition is allowed. The impugned order dated 20.08.2018 (Annex.P/8), whereby the services of the petitioner were dismissed, and the order dated 11.03.2024 (Annex.R/1), whereby the representation of the petitioner was rejected, are hereby quashed and set aside. The respondents are directed to reinstate the petitioner in service forthwith with all

notional benefits strictly in accordance with law. It is, however, made clear that the reinstatement of the petitioner shall remain subject to the final outcome of criminal appeal i.e. CRLAS No.1236/2025 (State of Rajasthan Vs. Rajendra Prasad), which is pending adjudication before this Court.

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

(DR.NUPUR BHATI),J

66-S.Sharma/-