

**SUPREME COURT OF INDIA**

C.R. Radhakrishnan

Vs.

State of Kerala

C.A.No.4511-4512 of 2017

(Kurian Joseph and R.Banumathi,JJ.,)

27.03.2017

**JUDGMENT**

**Kurian Joseph,J.,**

SLP(Civil)No.207-208/2013

1. Leave granted.

2. The appellant is before this Court, aggrieved by the denial of the full service benefits for the period he was kept out of service on account of Conviction in a criminal case. The conviction was set aside and the appellant was acquitted by the High Court vide order dated 31.07.2000 rendered in CrI.A. No.298 of 1995, paragraph 13 of the said judgment reads as follows:-

"13. On a close scrutiny of the oral and documentary evidence, I can find that the prosecution failed to conclusively prove the guilt of the accused beyond all reasonable doubt. Therefore, the benefit of doubt has to be given to the accused and he is to be acquitted. The conviction and sentence are liable to be set aside."

3. The learned counsel for the appellant submits that since the appellant has been acquitted, under Rule 56 of the K.S.R., Part-I, the appellant is entitled to full service benefits. We find it difficult to appreciate the submission. Rule 56(1) and (2) of K.S.R. reads as follows:-

"56. (1) When an officer who has been dismissed, removed or compulsorily retired including an officer who has been compulsorily retired under Rule 60A, is reinstated as a result of appeal or review or would have been so reinstated, but for his retirement on superannuation while under suspension or not, the authority competent to order reinstatement shall consider and make a specific order-

(a) regarding the pay and allowances to be paid to the officer for the period of his absence from duty including the period of suspension preceding his dismissal, removal, or compulsory retirement, as the case may be,

(b) whether or not the said period shall be treated as a period spent on duty, and

(c) in the case of an officer who was compulsorily retired under Rule 60A and subsequently reinstated, for the recovery of the relevant benefits, if any, already paid to him.

(2) Where the authority competent to order reinstatement is of opinion that the officer who had been dismissed, removed or compulsorily retired, has been fully exonerated, the officer shall, subject to the provisions of sub-rule (6) be paid the full pay and allowances to which he would have been entitled had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be: Provided that where such authority is of opinion that the termination of the proceedings instituted against the officer had been delayed for reasons directly attributable to the officer, it may, after giving him an opportunity to make his representation and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the officer shall subject to the provisions of sub-rule (7), be paid for the period of such delay, only such amount (not being the whole) of such pay and allowances as it may determine."

4. This is not a case where the appellant has been fully exonerated, meaning thereby an honourable acquittal. Learned counsel for the appellant submits that going by the judgment, the finding arrived at by the High Court in the criminal appeal regarding benefit of doubt is not correct. We are afraid, under the present proceedings, we cannot appreciate the above submission. The correctness or otherwise of the judgment in the Criminal Appeal is not the subject matter of this case. In these proceedings we can only look at the findings in the judgment. The acquittal is only on benefit of doubt. Thus, we find no merits in these appeals and the same are, accordingly, dismissed.

5. Pending applications, if any, shall stand disposed of.

6. There shall be no orders as to costs.