

A RANCHHODJI CHATURJI THAKORE
v.
THE SUPERINTENDENT ENGINEER, GUJARAT ELECTRICITY
BOARD, HIMMATNAGAR (GUJARAT) AND ANR.

OCTOBER 28, 1996

B [K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Service Law :

C *Reinstatement—Back wages—Employee convicted for murder and sentenced—Dismissed from service—Challenged in writ petition—In the meantime he was acquitted by the High Court—High Court directing reinstatement—On appeal held, though he was later acquitted he had disabled himself from rendering the service on account of conviction and incarceration in jail—Hence he is not entitled to payment of back wages.*

D CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
No. 22538 of 1996.

From the Judgment and Order dated 26.8.93 of the Gujarat High
Court in L.P.A. No. 319 of 1993.

E H.A. Raichura for the Petitioner.

The following Order of the Court was delivered :

F Delay condoned.

This case does not warrant interference for the reason that, admittedly,
the petitioner was charged for an offence under Section 302 read with 34
IPC for his involvement in a crime committed on October 1, 1986. The
Sessions Judge had convicted the petitioner under Section 302 read with 34
G IPC and sentenced him to undergo imprisonment for life. On that basis,
the respondents had taken action to have him dismissed from service since
he was working as a Junior Clerk in the respondent—Electricity Board.
The petitioner challenged the validity of the dismissal order by way of a
special civil application filed under Article 226 of the Constitution. Pending
H disposal the Division Bench of the High Court by its judgment dated

October 14, 1992 acquitted him of the offence. Consequently, while disposing of the writ petition, the learned single Judge directed the respondent to reinstate him into the service with continuity of the service, but denied back wages, The petitioner then filed Letters Patent Appeal No. 319/93 which was dismissed by the impugned order dated August 26, 1993. Thus, this special leave petition. A

The reinstatement of the petitioner into the service has already been ordered by the High Court. The only question is: whether he is entitled to back wages? It was his conduct of involving himself in the crime that was taken into account for his not being in service of the respondent. Consequent upon his acquittal, he is entitled to reinstatement for the reason that his service was terminated on the basis of the conviction by operation of proviso to the statutory rules applicable to the situation. The question of back wages would be considered only if the respondents have taken action by way of disciplinary proceedings and the action was found to be unsustainable in law and he was unlawfully prevented from discharging the duties. In that context, his conduct becomes relevant. Each case requires to be considered in his own backdrops. In this case, since the petitioner had involved himself in a crime, though he was later acquitted, he had disabled himself from rendering the service on account of conviction and incarceration in jail. Under these circumstances, the petitioner is not entitled to payment of back wages. The learned single Judge and the Division Bench have not committed any error of law warranting interference. B C D E

The special leave petition is accordingly dismissed.

G.N.

Petition dismissed.