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## THE PRINCIPLE OF 'NO WORK NO PAY'

The Allahabad High Court (**HC**) in the *Shivakar Singh* case<sup>1</sup> denied relief to employee Shivakar Singh (**Singh**) of Uttar Pradesh Power Corporation Limited (**UPPCL**). He was sentenced to three years in prison on charges of corruption. He claimed backwages for the period of incarceration, which was denied on the principle that missing work due to incarceration does not entitle him to backwages.

### Brief Facts.

- Singh had demanded bribes from a private electricity consumer for issuing electricity connection.
- A criminal case was instituted under Section 13(1)(b) of the Prevention of Corruption Act, 1988 by the Anti-Corruption Department and not by UPPCL.
- UPPCL also did not prevent Singh from working in his post in any manner.
- However, Singh was found guilty of the offence and he had to serve time in prison for nearly three years from 2015.
- He instituted a petition on the basis that he was aggrieved by the order declining to pay arrears of salary for the period that he was incarcerated in prison.<sup>2</sup>

### Question & Principle of Law.

Whether Singh, who remained absent for his duties for nearly three years, is entitled to backwages?

The principle of 'no work, no pay', has been of general application in labour welfare legislations, such as the Payment of Wages Act.<sup>3</sup> The only exception to this is when an employer knowingly prevents an employee from performing or discharging his duties, in any manner.<sup>4</sup>

### Singh's Contentions.

Relied on the *Raj Narain* case,<sup>5</sup> where the employee was suspended in contemplation of departmental enquiry by the employer and later the proceedings were dropped. Here, the backwages for the period of suspension was granted. Also relied on the *Anil Kumar* case<sup>6</sup> which was based on the law laid down in *Raj Narain*.

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<sup>1</sup> *Shivakar Singh v. State Of U.P. And 5 Others* 2025 SCC Online All 598 = 2025:AHC:17761.

<sup>2</sup> Paragraph 2 of the judgment.

<sup>3</sup> Payment of Wages Act, 1936.

<sup>4</sup> Paragraph 5 of the judgement.

<sup>5</sup> *Raj Narain v Union of India* (2019) 5 SCC 809.

<sup>6</sup> *Anil Kumar Singh v State of UP* 2024 (6) ADJ 223.

## HC's Judgment & Reasoning.

The HC:

- Relied on precedents adjudicated by the Supreme Court (SC) and other High Courts on this principle.
- The SC's *Reserve Bank* judgment<sup>7</sup> wherein it was held that an employee may be entitled to full pay and allowances during the period of work. However, the regulations vest the power entirely on the bank to treat a period of suspension as being on duty or on leave. If the employee is absent for reasons of his own involvement, the bank cannot be held liable to pay salary and allowances for the said period. The SC went on to say that, otherwise, it would be unfair to those who must work to earn their pay.<sup>8</sup>
- Cited the *Ranchhodji Chaturji Thakore* case,<sup>9</sup> whether the employee accused of a crime (later found acquitted) was entitled to back wages. The SC held that it was the employee's personal conduct that disallowed him from working for the employer, and as such, was not in any manner, prevented from discharging his duties. Therefore, under these circumstances, the employee is not entitled to back wages.
- Also cited the SC case of *Jaipal Singh*<sup>10</sup> where the court declined to grant back wages to an employee who was reinstated, after acquittal, on the grounds that the employer is well within its rights to deny back wages for the period that he was not in service.
- Distinguished the *Raj Narain* case cited by Singh, on grounds that the facts were different.
- Held: "...[T]he principle of 'no work no pay' cannot be countenanced in this case. In fact, granting back wages in the teeth of the principle of 'no work no pay' will lead to unjust enrichment of the petitioner and unfair loss to the State exchequer. The petitioner does not have any lawful entitlement to any back wages during the period of his imprisonment."<sup>11</sup>
- Noted that Singh is entitled to continuity in service for the period of imprisonment, for the purposes of pension.<sup>12</sup>

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<sup>7</sup> *Reserve Bank v Bhopal Singh Panchal* (1994) 1 SCC 541.

<sup>8</sup> Paragraph 6 of the judgment.

<sup>9</sup> *Ranchhodji Chaturji Thakore v. Superintendent Engineer, Gujarat Electricity Board, Himmatnagar (Gujarat)* (1996) 11 SCC 603.

<sup>10</sup> *Union of India v Jaipal Singh* (2004) 1 SCC 121.

<sup>11</sup> Paragraph 11 of the judgment.

<sup>12</sup> Paragraph 14 of the judgment.