

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 2228 of 1995 (O&M)

Date of decision: 13.05.2015

Swaranjit Singh

...Petitioner

Versus

Haryana State Electricity Board and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Tejpal Dhull, Advocate for the petitioner.

Mr. Kamal Sharma, Advocate for the respondents.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Article 226 of the Constitution of India, the petitioner seeks issuance of directions to the respondents to release full pension, gratuity, GPF and other retiral benefits.

2. It is contended that the petitioner was appointed as ALM on 21.06.1955 and thereafter was promoted as Line Superintendent on 29.01.1968. He was placed under suspension on 03.10.1974 and the period of suspension was treated as leave of the kind due, vide Annexure P-1. Aggrieved against the order Annexure P-1, the petitioner had approached this Court by filing CWP No. 155 of 1990, which was disposed of with the direction that the petitioner would

furnish the necessary certificate that he was not in any other employment during the suspension period. The learned counsel further contends that pursuant to the direction of this Hon'ble Court, the petitioner had submitted the necessary certificate. The pension and other retiral benefits were paid but no increment was granted to the petitioner for the period from 04.02.1975 to 17.01.1979.

3. It is contended that keeping in view that only the order of recovery was passed which is a minor punishment, therefore, the benefit of increment of suspension period deserves to be granted to the petitioner along with other consequential benefits.

4. On the other hand, the learned counsel for the respondents submits that in view of the fact that the petitioner had admitted his guilt; a lenient view was taken and that he was not exonerated. He further submits that the petitioner was reinstated into service on 27.04.1988, whereas the petitioner choose to join on 18.01.1989.

5. I have heard the rival contentions of learned counsel for both the parties and have gone through the record carefully.

6. The Division Bench of this Court in **C.B. Bhatnager** Vs. **The Food Corporation of India**, 1993(2) SCT 35, has held as under:-

“4. An employer has an undoubted right to suspend an employee in accordance with the rules or

regulations governing the conditions of service. In case of the employees of the Food Corporation of India, Regulations have been framed under Section 45 of the Food Corporation of India Act, 1964. Regulation 66 permits the appointing authority or any other authority duly empowered authority or any other authority duly empowered in his behalf to place an employee under suspension when an enquiry is contemplated or is pending. Suspension can also be ordered in certain other cases specified in the Regulation. However, this suspension is only of an interim nature. It is not penal. It does not ipso facto deprive the employee of his right to the grant of increment etc. Stoppage of increments is by itself a penalty which can be imposed only after following the requisite procedure and in accordance with the principles of natural justice.

5. *In the present case, the petitioner was placed under suspension vide order dated January 30, 1985. This order was revoked on September 30, 1989. No order for stoppage of increments even is stated to have been passed. It has not even been shown that a charge sheet has been issued or an enquiry is pending against the petitioner. In such a situation, there appears to be no warrant or authority to support the action of the respondents. No Rule, Regulations or instruction has been brought to our notice by the respondents to justify the action.*

6. *The only defence taken on behalf of the respondents is that a person is not granted increments when he is on earned leave or half pay leave. If the rules so provide, an employee may not be entitled to the grant of increments during the period he is on earned*

leave or half pay leave. However, an employee is not on leave during the period of suspension. Consequently, the fact that an employee is not entitled to increments during the period of leave is no ground for the refusal to grant increments during the period of suspension.”

7. It is settled principle of law that during the suspension period the benefit of increment cannot be stopped. So the petitioner was entitled the benefit of increment during the suspension period. The case of the petitioner is squarely covered by the judgment in **C.B. Bhatnager's** case (supra).

8. The service conditions of the petitioner are governed by the Haryana Civil Services (Punishment & Appeal) Rules and under the Rule 4, the penalty has been prescribed as under:-

“4. Penalties (1) – The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government employee namely -

Minor Penalties

- i) warning with a copy in the personal file (character roll);*
- ii) censure;*
- iii) withholding of promotion'*
- iv) recovery from pay of the whole or part of the pecuniary loss caused by negligence or breach of orders, to the Central Government or a State Government or to a Company and association or a body of individuals whether incorporated or not, which is wholly or substantially owned or controlled by the Government or to a local authority or University set up by an Act of*

Parliament or of the legislature of a State; and
v) withholding of increments of pay.

Major Penalties

- vi) reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the Government employee will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;*
- vii) reduction to a lower scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government employee to the time scale or pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the Government employee was reduced and his seniority and pay on such restoration to that grade, post or service;*
- viii) compulsory retirement;*
- ix) removal from service which shall not be a disqualification for future employment under the Government;*
- x) dismissal from service which shall ordinarily be a disqualification for future employment under the Government.”*

9. So from the above Rules, it is clear that the order of recovery being a minor punishment, and in the eventuality when a minor punishment is imposed the withdrawal of the benefits for the period of suspension would not be justified. Perusal of the record would reveal that the rejoinder filed by the respondents to the application filed by the petitioner, the respondents have conceded

that the above period from 03.10.1974 to 17.01.1989 will count towards pension.

10. Accordingly, in view of the facts and the law as laid down above, the present petition is allowed. The respondents are directed to grant the increments for the period of suspension i.e. for the period from 03.10.1974 to 27.04.1988 after placing the petitioner in the appropriate cadre and thereafter, all other consequential benefits as admissible be released in favour of the petitioner, within a period of four months from the date of receipt of a certified copy of this order.

13.05.2015

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(JITENDRA CHAUHAN)
JUDGE

Whether to be referred to Reporter: Yes / No