

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 8745 of 2014 (O&M)
Date of decision : March 24, 2015

Naresh Kumar,

..... Petitioner

v.

Dakshin Haryana Bijli Vitran Nigam Ltd. & others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. R.K Malik, Sr. Advocate with
Mr. Kuldeep Seoran, Advocate
for the petitioner.

Mr. PS Poonia, Advocate
for the respondents.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the Digest ?**

Ajay Tewari, J (Oral)

The petitioner was working as a regular employee when he was accused in a criminal case on 24.8.2011. Ultimately, he was acquitted on 18.12.2013. After acquittal, his period of suspension was treated as leave of the kind due. The claim is that he should be given all consequential benefits.

In the reply, the reason given is that the petitioner was in custody throughout the trial and in these circumstances, he could not have worked and, therefore, could not have been granted full pay. He has relied

upon Ram Kumar v. State of Haryana and others, CWP No.1847 of 2009, decided on 08.01.2015, wherein this Court in an identical situation, while placing reliance upon the Division Bench decision of this Court reported as Mahabir Singh v. State of Haryana and others, 2011 (2) SLR 638, held the petitioner therein to all consequential benefits. In Mahabir Singh's case (supra), it was held as follows :-

“6. A perusal of the aforesaid Rule shows that if a Government employee has been arrested on a criminal charge then he is deemed to be under suspension for the period during which he is detained in custody or is undergoing imprisonment. In such a situation, he is not allowed to draw any pay and allowance other than subsistence allowance that may be granted in accordance with the provision of Rule 7.2 of the Rules for such period until the final termination of the criminal proceedings initiated against him or until he is released from the detention followed by reinstatement. The rule further provides that adjustment of his allowances for the period of suspension in the aforesaid eventuality has to be made according to the circumstances of each case. According to the illustration of the rule the full amount of pay and allowances could be given only if the Officer is completely acquitted of blame or if it is proved that the officer's liability arose from circumstances beyond his control or the detention was found to be unjustified by the competent authority.”

In the present case, the respondents have merely taken the plea that since the petitioner was in detention, he could not be granted full pay. In my considered opinion, the impugned order having not satisfied the conditions laid down in Mahabir Singh's case (supra), which are extracted above, has to be set aside. Consequently, this writ petition is allowed, the impugned order is set aside, and the matter is remanded back to the competent authority to consider and decide the claim of the petitioner for his pay and allowances in terms of the above ex-position of law, by passing a speaking order. Let the necessary exercise of passing the said order be

conducted within three months from the date of receipt of a certified copy of this order, and in case the petitioner is found entitled to any amount/s, the same be also released to him within the aforesaid period, failing which the petitioner shall be entitled to claim the same with interest @ 8% pa from the date/s the amount/s fell due till the date of actual payment.

March 24, 2015
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(AJAY TEWARI)
JUDGE