

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

LPA No.1275 of 2015(O&M)

Date of decision:1.12.2015

Desh Raj

....Appellant

VERSUS

Dakshin Haryana Bijli Vitran Nigam Ltd. and othersRespondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Sandeep Sharma, Advocate for the appellant.

HEMANT GUPTA, J.(Oral)

The present Letters Patent Appeal under Clause X of the Letters Patent is directed against an order passed by learned Single Bench on 16.08.2013 whereby the appellant was denied wages from the date of dismissal i.e. 21.12.2011 till reinstatement.

The argument of learned counsel for the appellant is that the appellant was reinstated on 28.11.2014 though, the order was passed by learned Single Bench on 16.08.2013, therefore, the appellant is at least entitled to wages from the date the order was passed.

The appellant was convicted for an offence under Section 325 of Indian Penal Code (for short 'IPC'). Such termination was on account of conviction in the criminal case involving moral turpitude. The learned Single Bench has found that the dismissal on account of conviction is illegal, arbitrary and not warranted by the instructions of the Nigam. After holding so, learned Single Bench has denied wages from the period of dismissal till the date of reinstatement obviously for the reason that the appellant has not worked for the respondent-Nigam.

We do not find any merit in the arguments raised.

Had the learned Single Bench considered it appropriate, it would have ordered to grant wages from the date of order. Mere fact that the appellant was reinstated in November, 2014 is not a ground on the basis of which, the appellant can claim back-wages. The conviction of the appellant was for an offence under Section 325 of IPC and was not on account of any act of the employer.

This Bench in CWP No.5076 of 2012 titled K.C. Sareen and another v. Punjab National Bank and others, decided on 20.11.2015, has considered the question of award of back-wages when the services are dispensed with on account of conviction in a Criminal Case. It has been held that if the dismissal was based on a conviction on account of an action of the employer, the employee would be entitled to back-wages but if the conviction was not on account of any action of the employer, the employee will not be entitled to back-wages.

Therefore, we do not find any error in the order passed by learned Single Bench which may warrant interference in the present intra-Court appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

DECEMBER 1, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE