

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.239 of 2015 (O&M)

Date of Decision: April 30, 2015

Satpal Singh

.....Appellant

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Manish Dadwal, Advocate, for the appellant.

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1. Whether Reporters of Local papers 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?

Surya Kant, J. (Oral)

This letters patent appeal impugns the order dated 18.11.2014 whereby learned Single Judge has dismissed the appellant's writ petition in which he laid challenge to the order dated 15.01.2014 of the Director Public Instructions (Secondary Education) whereby the claim for payment of salary or other allowances for the period w.e.f. 12.08.2006 to 06.07.2009 beyond the payment of subsistence allowance already paid, was rejected.

[2] The above-stated order was passed by the Competent Authority in the following circumstances.

[3] The appellant joined the Education Department, Government of Punjab, as a Punjabi Teacher in the year 1978. He was promoted as Punjabi Master w.e.f. 26.06.1994. The appellant alongwith one Harbhajan Singh-main accused, was

involved in a criminal case under Sections 302, 376, 109/34 IPC registered at Police Station Goraya, District Jalandhar. As the appellant was arrested in that case, he came under 'deemed suspension' once the arrest period exceeded more than 48 hours.

[4] The appellant was paid subsistence allowance during the suspension period as per rules. This fact is evident from the relevant part of the impugned order dated 15.01.2014, extracted herein-below;

“..... So, it is not proper to treat his suspension period as duty period for all purposes. So, for this period, he will not be given any other financial benefit except the subsistence allowance, but for other purpose just like pension and seniority, the suspension period will be treated as duty period.....”

[5] In the criminal case, the Sessions Judge, Jalandhar, vide judgment and order dated 28.11.2008 held the main accused, namely, Harbhajan Singh, guilty under Section 376 IPC and sentenced him to undergo imprisonment for life as the victim had meanwhile lost her life, but gave benefit of doubt to the appellant and other co-accused.

[6] It may be mentioned at this stage that allegation against the appellant is that he abetted the commission of rape by Harbhajan Singh by facilitating the accused with the accommodation in school premises, where rape is proved to have been committed.

[7] On acquittal, the appellant was reinstated in service.

[8] Subsequently, under the directions of this Court, the impugned order dated 15.01.2014 regarding regularization of suspension period of the appellant and also for determination of his monetary claim for that period, was passed holding that since it was a case where the Competent Authority did not deliberately placed the appellant under suspension, rather he was “deemed to be under suspension” due to arrest in the criminal case, his suspension period cannot be treated as duty period for all purposes. Consequently, the Competent Authority directed that the appellant “will not be given any other financial benefits except the subsistence allowance, but for other purpose just like pension and seniority, the suspension period will be treated as duty period”.

[9] The aggrieved appellant approached this Court but the learned Single Judge vide order under appeal has declined to interfere with the decision of the Competent Authority.

[10] We have heard learned counsel for the appellant who relies upon the following decisions of this Court;

- (i) Sunder Singh versus State of Haryana, 2001 (2) SCT 849;
- (ii) Mahabir Singh versus State of Haryana and others, 2011 (2) SLR 638, and
- (iii) Ishwar Singh versus State of Haryana and others, 2012 (2) SCT 209.

[11] Learned counsel for the appellant pointedly refers para No.9 of the decision in Mahavir Singh's case (supra), to contend that once the appellant has been reinstated in service, Rule 7.2 of the Punjab Civil Services Rules would come to his rescue to seek the subsistence allowance at an amount equivalent to the leave salary and/or in the manner as defined

under Section 7.2 (1)(ii)(a) of the Rules (ibid).

[12] Having heard learned counsel for the appellant, we do not find any ground to interfere with the order passed by learned Single Judge. We say so for the reason that the Competent Authority did not expressly invoke its power to place the appellant under suspension, rather it was a case of automatic suspension due to arrest in the criminal case for the period beyond 48 hours. The order passed to this effect by the Competent Authority was a mere declaration of the implications of the Statutory Rules which contemplate like that. Having held that, we find merit in the reason as assigned by learned Single Judge that since the State was deprived to avail the services of the appellant during the period he remained in jail or judicial custody, nothing more than paid to him as subsistence allowance is liable to be paid out of the State exchequer.

[13] It was not a case of innocent victimization of the appellant. There were very strong suspicious circumstances for his involvement in the criminal case. Since the Sessions Court has applied the jurisprudential principle that the charges ought to have been proved beyond any reasonable doubt and has extended the benefit of doubt in favour of the appellant, does not mean that a contrary view was totally unsustainable. It is a fit case where the Authorities ought to have swung into action and take disciplinary action against the appellant but unfortunately opportunity has been lost due to his retirement meanwhile.

In these circumstances, we reiterate that nothing more must be paid to appellant for the period he remained in jail/judicial custody.

No case to interfere with the order passed by
learned Single Judge is made out.

Dismissed.

[SURYA KANT]
JUDGE

April 30, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE

CM No.458 of 2015 in
LPANo.239 of 2015

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Satpal Singh versus State of Punjab and others

Present : Mr.Manish Dadwal, Advocate,
for the applicant-appellant.

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Since we have decided the main appeal on
merits, no separate order is required to be passed on this
application for condonation of delay in filing the appeal.

(SURYA KANT)
JUDGE

April 30, 2015
mohinder

(P.B.BAJANTHRI)
JUDGE