

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

**CWP No. 17432 of 2015**

**Date of decision : 14.07.2016**

**Naresh Kumar**

**...Petitioner**

**versus**

**D.H.B.V.N.L and others**

**...Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. R.K. Malik, Sr. Advocate with  
Ms. Rimpal Kadyan, Advocate  
for the petitioner.

Mr. R.S. Longia, Advocate  
for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

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**RITU BAHRI , J.**

Petitioner has filed the present petition seeking quashing of order dated 21.07.2015 (P-7) vide which the suspension period of the petitioner from 24.08.2011 to 03.01.2014 was treated as leave of kind due and further prayer is for issuance of direction to the respondents to treat the above said period as a duty period.

Brief facts of the case are that the petitioner was working as

Assistant Lineman working in DHBVNL and was suspended w.e.f

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24.08.2011 due to involvement in a criminal case. Copy of suspension period dated 24.12.2012 is Annexure P-1. Subsequently the petitioner was acquitted on 18.12.2013 (P-2). After acquittal, he filed representation to reinstate him and petitioner was reinstated on 04.01.2014. However, vide order dated 14.03.2014 (P-3), the suspension period of the petitioner from 24.08.2011 to 03.01.2014 be considered as leave of kind due. In this regard, petitioner filed representation (P-4), which was rejected vide order dated 03.04.2014 (P-5). Petitioner then filed CWP No. 8745 of 2014 before this Court, which was allowed on 24.03.2015 (P-6) and the matter was remanded back to the authorities. However, the authorities treated the suspension period of the petitioner from 24.08.2011 to 03.01.2014 as leave of kind due, vide order dated 21.07.2015 (P-7).

On notice, a written statement has filed on behalf of respondent No. 1 and 2 taking a stand that since the petitioner was acquitted by giving benefit of doubt and thus, the impugned order has rightly been passed treated the suspension period of the petitioner as leave of kind, as per Rules.

Learned counsel for the petitioner contends that once the petitioner has been acquitted of the charges framed against him and further the writ petition filed by him earlier has also been allowed, the petitioner is entitled to full salary of the suspension period, in view of

the provisions of Rule 7.5 of the Punjab civil Service Rules, Vol I Part I.

Learned counsel has further submitted that the petitioner is covered by Rule 7.3 and 7.5 of C.S. Vol I Part I, as under Rule 7.3 of CSR Vol I Part I if an employee is fully exonerated then employee shall be given the full pay and allowances to which he would have been entitled, had he not been dismissed, removed.

Heard learned counsel for the parties.

A bare perusal of the judgment of acquittal dated 18.12.2013 clearly shows that the prosecution could not prove the ingredients of Section 304-B and 498-A IPC, as prosecution failed to prove that the deceased was subjected to cruelty or harassment by the petitioner or her family members or in connection with demand of dowry. In the absence of any direct evidence, the petitioner was acquitted. Reference at this stage can be made to a judgment of this Court in a case of Dr. Anil Kumar Ranga vs. State of Haryana, passed in CWP No. 9139 of 2015, decided on 14.01.2016, wherein the petitioner was also acquitted in a criminal case filed under Sections 406/498-A IPC and was reinstated into service but his suspension period was ordered to be treated as leave of kind due. This Court allowed the writ petition by relying upon various judgments and observed as under:-

***“In Brahma Chandra Gupta v. Union of India,***

***1984 AIR (SC) 380 the Hon'ble Supreme Court while examining***

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*a similar issue had observed as under:*

*“6.....Keeping in view the facts of the case that the appellant was never hauled up for departmental enquiry, that he was prosecuted and has been ultimately acquitted, and on being acquitted he was reinstated and was paid full salary for the period commencing from his acquittal, and further that even for the period in question the concerned authority has not held that the suspension was wholly justified because 3/4th of the salary is ordered to be paid, were of the opinion that the approach of the trial court was correct and unassailable. The learned trial Judge on appreciation of facts found that this is a case in which full amount of salary should have been paid to the appellant on his reinstatement for the entire period. We accept this as the correct approach.....”*

*Even a Division Bench of this Court in the case of **Hukam Singh v. State of Haryana and another, 2001(2) SCT 696**, while considering the scope of Rule 7.5 of the Punjab Civil Service Rules had held as under:-*

*“8. In our this view, we are supported by the judgment of this Court in the case of **Maha Singh v. State of Haryana and another, 1993 (8) Service Law Reporter 188: 1994 (1) SCT 154 (P&H)**. Same view was expressed by this Court in the case of*

***Lehna Singh v. The State of Haryana and others, 1993 (3)***

***Recent Services Judgments 119: 1994(1) SCT 173 (P&H).***

*Keeping in view the aforesaid, we have no hesitation in holding that the impugned order cannot be sustained. In terms of Rule 7.5 of the Rules, on petitioner's being acquitted, he would be entitled to full salary and allowances for the period of suspension and dismissal. The impugned order Annexure P-7 is accordingly quashed. The petitioner can thereafter be considered for any further promotion that may be due in accordance with the rules. No order as to costs."*

*Such view has thereafter been noticed and followed by the Division Bench of this Court in LPA No. 1660 of 2011 titled as '**Ishwar Singh vs. State of Haryana and others**' decided on 17.11.2011.*

*In the case of "**Surjit Singh vs. State of Haryana and another**" titled '**CWP No. 1326 of 2013**' wherein the petitioner who was serving on the post of Patwari under the Revenue Department, State of Haryana was placed under suspension on account of involvement in a criminal case under the Prevention of Corruption Act. He was reinstated back in service in consequence of the judgment of acquittal in the criminal case. The petitioner, however was held not entitled to*

*the salary for the period he remained out of service. A Division Bench of this Court allowed the writ petition by observing that having been absolved of such allegations and charges, he would be vested with the right to full pay and salary for the period he remained out of service in the light of relevant statutory provisions i.e Rules 7.3 and 7.5 of the Punjab Civil Service Rules, Volume I as applicable to the State of Haryana. Hence the petitioner was held entitled to full pay and allowances for the period that he had remained out of service on account of his conviction.”*

Applying the ratio of aforementioned judgments, order dated 21.07.2015 (P-7) is hereby quashed. The respondent-department is directed to treat the suspension period of the petitioner i.e from 24.08.2011 to 03.01.2014 as duty period and thereafter, release the full pay and allowances for the said period.

The petition stands allowed.

**(RITU BAHRI)**  
**JUDGE**

**14.07.2016**

G Arora