

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

**CWP No.24919 of 2015
Date of Decision:- 27.04.2016**

Ramesh Kumar

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. R.K. Malik, Senior Advocate
with Ms. Rimple Kadyan, Advocate,
for the petitioner.**

Mr. Ravi Partap Singh, Asstt. Advocate General, Haryana.

RITU BAHRI, J. (Oral)

Petitioner by way of present petition is seeking quashing of order dated 13/17.10.2014 (Annexure P-1) to the extent the period from 07.02.2008 to 13/17.10.2014 has not been considered as a duty period and further to grant him the regular pay scale as per the decision (Annexure P-6).

Petitioner was appointed as Driver on contract basis in the year 2002 in Haryana Roadways, Gurgaon. An FIR No.1022 dated 04.12.2006 was lodged against him under Sections 323, 336 & 509 IPC at Police Station, Gurgaon on the allegation that he misbehaved with complainant Shashi Bala on 02.12.2006. He was placed under suspension and charge-sheet under Rule 7 of HCS (P&A) Rules, 1987 was issued vide memo dated 08.12.2006. After conducting enquiry, the petitioner was found guilty of the charges framed

against him and the General Manager, being competent authority, passed the order dated 29.11.2007, by imposing the following punishments, subject to the decision of the Civil Court, against the said FIR: -

1. *A fine of Rs.10,000/- was imposed which is more than two months salary.*
2. *The contract is extend for the next one year for considering his case for regularization of his services.*
3. *Services are hereby censured.*
4. *He is want to be careful in future to remain good behavior with passengers.*
5. *Nothing will be paid to him for the period in which he remained under suspension i.e. 04.12.2006 to 21.12.2005.”*

After registration of the FIR, the complaint was made to the Transport Commissioner and thereafter in compliance of order of Head Quarter dated 18.01.2008, the services of the petitioner were terminated on 07.02.2008. The petitioner apart from facing the criminal trial had been punished twice on the same complaint by the department and while considering his appeal against the order of termination was allowed on 13.10.2014 (Annexure P-1). It was observed therein that in the criminal trial the petitioner has since been acquitted, however, while setting aside the order of termination, the period during which he remained out of service was to be treated as extraordinary leave without pay and no financial benefits were to be granted to the petitioner for the period he remained out of service.

In FIR No.1022 dated 04.12.2006, vide decision dated 18.12.2012, passed by the Judicial Magistrate, 1st Class, Gurgaon, the petitioner has since been acquitted, however, the appellate authority while passing the impugned order 13.10.2014 (Annexure P-1) has not extended the benefit of Rule 7.5 C.S.R. Vol.II to the petitioner. Even the initial order of punishment whereby a fine of ₹10,000/- has been imposed was subject to the

final decision in the criminal trial in the FIR. Since, the petitioner has been acquitted, he was entitled to be reinstated with consequential benefits in view of the judgment of Division Bench of this Court in **LPA No.1660 of 2011** titled **Ishwar Singh Vs. State of Haryana and others**, decided on **17.11.2011**.

Second prayer of the petitioner is that as per the judgment of the Division Bench of this Court in **CWP No.22516 of 2012** titled **Mohinder Singh and others Vs. State of Haryana and others**, decided on **01.04.2013** (Annexure P-6), the petitioners, who were appointed on contract basis, are entitled to minimum pay scale from the date of their initial appointments.

Learned Senior counsel further informed the Court that the SLP against the said judgment (Annexure P-6) has been withdrawn by the State.

In the written statement, the respondents have not stated that whether there was any SLP against the judgment of Division Bench of this Court is pending before the Supreme Court or not.

Hence, the present writ petition is allowed. The impugned order dated 13.10.2014 (Annexure P-1) is set aside and directions to the respondents to extend the benefit of reinstatement to the petitioner with all consequential reliefs in view of the judgment of Division Bench of this Court in **Ishwar Singh's case (supra)** and further direction to grant the benefit of minimum pay scale to him as per the judgment in **Mohinder Singh and others' case (supra)** (Annexure P-6), passed by the Division Bench of this Court, within a period of three months, from the date of receipt of certified copy of this order and thereafter a compliance report be sent to this Court.

April 27, 2016
naresh.k

(**RITU BAHRI**)
JUDGE