

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

**CWP No.7733 of 2015**

**Date of decision: 17.06.2016**

**Ghamandi Lal**

**...Petitioner**

**versus**

**State of Haryana and another**

**...Respondents**

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

Present: Mr. R.K. Malik, Senior Advocate,  
with Mr. Mandeep Singh, Advocate,  
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

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**RITU BAHRI, J.**

The petitioner is seeking quashing of the orders dated 10.06.2014 and 11.06.2014 (Annexures P-6 & P-7 respectively), vide which he has been denied salary, seniority, increments, leave, gratuity and pension for the period during which he remained under suspension.

Ghamandi Lal-petitioner was appointed as Peon on 05.07.1990 and was promoted as Clerk in the month of January, 1996. He was further promoted as Auditor on 07.07.2005. Vide order dated 27.10.2005 (Annexure P-1), the petitioner was suspended. Thereafter, he was removed from service vide order dated 03.02.2009 (Annexure P-2) on the ground that he had been convicted under Sections 406 and 498-A IPC. Against his conviction, the petitioner approached this Court by filing a criminal revision. Vide order dated 05.08.2009 (Annexure P-3), the conviction of the petitioner was stayed during the pendency of the revision petition. However, despite the said order, he was not reinstated in service. Thereafter, he filed CWP No.4348 of 2009

before this Court seeking direction to the respondents to reinstate him on account of the order dated 05.08.2009 (Annexure P-3). The said petition was disposed of by giving direction to the petitioner to file a fresh representation before the respondent-authorities. Pursuant to the said order, the petitioner filed a representation, which was rejected by the respondents vide order dated 01.03.2010 (Annexure P-4). Consequently, the revision petition filed by the petitioner was allowed and his conviction under Sections 406, 498-A IPC and Sections 5 & 6 of the Prohibition of Dowry Act was quashed vide order dated 23.04.2014 (Annexure P-5) passed by this Court. Vide order dated 10.06.2014 (Annexure P-6) passed by the Additional Chief Secretary, the petitioner was directed to be reinstated with a condition that period of his removal from service will not be treated as duty period. Thereafter, the Director, Local Audit, Haryana passed an order dated 11.06.2014 (Annexure P-7) to the effect that the suspension period as well as the period of removal will not be treated as duty period and no benefit of salary, seniority, increments, leave, gratuity and pension of the said period shall be granted to the petitioner. Hence, this petition.

Learned counsel for the petitioner states that the controversy involved in this petition is squarely covered by a decision given by this Court in **Sukhchain Singh Vs. State of Punjab**, CWP No.16192 of 2010, decided on 18.03.2013 (Annexure P-8).

Learned counsel for the respondents has argued that even though the petitioner was acquitted by this Court vide judgment dated 23.04.2014 (Annexure P-5), but it was the acquittal based on compromise. Therefore, the period from 27.09.2005 to 02.02.2009 cannot be counted towards seniority, increments, leaves, gratuity and pension etc. Further, the period of

his removal from service from 03.02.2009 to 10.06.2014 cannot be treated as duty period because he was not on duty during this period.

This Court in **Dr. Anil Kumar Ranga Vs. State of Haryana**, CWP No.9139 of 2015 (decided on 14.01.2016), was considering a case, where the petitioner had been suspended on account of pendency of criminal case, which was registered against him under Section 406 and 498-A IPC. On acquittal, he was reinstated in service, however, the suspension period was ordered to be treated as 'leave of the kind due.' No proceedings were initiated against him by the department. By relying upon a judgment passed by the Hon'ble Supreme Court in **Brahma Chandra Gupta Vs. Union of India**, 1984 AIR (SC) 380, it was held that subsequent upon reinstatement after acquittal (in the absence of any departmental enquiry), the petitioner shall be entitled to full amount of salary for the entire period, including the period of suspension and removal.

Further reference can be made to a judgment passed in **Hukam Singh Vs. State of Haryana and another**, 2001 (2) SCT 696, wherein the Division Bench of this Court while considering the scope of Rule 7.5 of the Punjab Civil Service Rules, has observed as under:-

“8. In our this view, we are supported by the judgment of this Court in the case of ***Maha Singh Vs. 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 Vs. 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.”

Same view has been taken by a 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. A Co-ordinate Bench of this Court in *Sukhchain Singh's* (supra) had allowed the petition, whereby the petitioner had been convicted under Sections 406 and 498-A IPC and had been removed. After acquittal, his was reinstated in service. He was held entitled to grant of pay and allowances for the period he remained out of service. Especially, the said period was treated as period spent on duty for all purposes.

In the facts of the present case, after acquittal of the petitioner vide judgment dated 23.04.2014 (Annexure P-5), the department vide orders dated 10.06.2014 and 11.06.2014 (Annexures P-6 and P-7) reinstated him with a condition that period of his removal from service will not be treated as duty period and no benefit of salary, seniority, increments leave, gratuity and pension of the said period shall be granted to him. Another fact, which requires consideration in this case is that the petitioner had filed Crl. Misc. No.14376 of 2009 in CRR No.1883 of 2005 seeking suspension of his conviction. Vide order dated 05.08.2009 (Annexure R-IV), this Court had stayed the conviction of the petitioner. Despite the fact that his conviction was stayed, the petitioner was not reinstated and he had to approach this Court by filing CWP No.4348 of 2009, which was disposed of vide order dated 18.11.2009 (Annexure R-V) by giving direction that the representation of the petitioner be decided within a period of three months. Thereafter, the representation of the petitioner was rejected vide order dated 23.03.2010 (Annexure R-VI). Finally, vide order dated 10.06.2014 (Annexure R-VIII), case of the petitioner was considered for reinstatement in service subject to

the condition that period of his removal from service would not be treated as duty period. Consequently, vide order dated 11.06.2014 (Annexure R-IX), he was reinstated in service as Auditor in the Local Audit Department, Haryana. Once, his conviction had been stayed vide order dated 05.08.2009 (Annexure P-3) passed by this Court, the respondent-department was in obligation to reinstate the petitioner forthwith, which they have not done. In view of the judgments discussed above, after acquittal, the petitioner was entitled for reinstatement with all consequential benefits.

Resultantly, the impugned orders dated 10.06.2014 and 11.06.2014 (Annexures P-6 & P-7) are set aside and the petitioner is held entitled to full salary and allowances for the period of suspension and dismissal with all consequential benefits.

Allowed accordingly.

17.06.2016  
ajp

(RITU BAHRI)  
JUDGE