

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 9139 of 2015

Date of decision : January 14, 2016

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Dr. Anil Kumar Ranga

.....Petitioner

Versus

State of Haryana

.....Respondent

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Parvinder Singh Chauhan, Addl. A.G., Haryana.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

The petitioner has filed the present writ petition seeking a writ of certiorari to quash the order dated 14/18.10.2010 (Annexure P-4) by which his suspension period has been treated as leave of kind due and further quash the order dated 14.2.2013 (Annexure P-6) and order dated 3/22.4.2015 (Annexure P-8) by which the representations filed by the petitioner to consider the suspension period as duty period has been rejected.

The petitioner was appointed as Dental Surgeon on 10.8.1996. He was suspended vide order dated 30.8.06 (Annexure

P-1) w.e.f 8.9.2004. He was suspended due to pendency of a criminal case registered against the petitioner under Sections 406/498-A IPC. The petitioner moved an application under Section 482 of Criminal Procedure Code for quashing the FIR No.516 dated 21.11.2003. The said application was disposed of with a direction to the parties to appear to before the trial Court vide order dated 30.7.2010 (Annexure P-2). Vide order dated 3.8.2010 (Annexure P-3) passed by Judicial Magistrate First Class, Chandigarh, the petitioner was acquitted of the charges framed against him. After acquittal, he was reinstated in service and his suspension period was ordered to be treated as leave of the kind due vide order dated 18.10.2010 (Annexure P-4). The petitioner filed representation against this order but the representation of the petitioner was rejected vide order dated 14.2.2013 (Annexure P-6). The petitioner again filed representation (Annexure P-7) to re-consider the matter by granting personal hearing. The said representation of the petitioner was also rejected vide order dated 22.4.2015 (Annexure P-8).

Learned counsel for the parties have been heard at length. It would be appropriate to examine in the first instance the Scheme of Rules governing the issue in question. Relevant extract of Rule 7.5 of the Punjab Civil Service Rules, Volume I, as applicable to the State of Haryana reads as under:

*SUSPENSION DURING PENDENCY OF CRIMINAL
PROCEEDINGS, OR PROCEEDINGS FOR ARREST
FOR DEBT, OR DURING DETENTION UNDER A*

LAW PROVIDING FOR PREVENTIVE DETENTION

7.5. An employee of Government against whom proceeding have been taken either for his arrest or debt or on a criminal charge or who is detained under any law providing for preventive detention should be considered as under suspension for any periods during which he is detained in custody or is undergoing imprisonment, and not allowed to draw any pay and allowances (other than any subsistence allowance that may be granted in accordance with the principles laid down in Rule 7.2) for such periods until the final termination of the proceedings taken against him or until he is released from detention and allowed to rejoin duty, as the case may be. An adjustment of his allowances for such periods should thereafter be made according to the circumstances of the case, the full amount being given only in the event of the officer being acquitted of blame or (if the proceedings taken against him were for his arrest for debt), of it being proved that the officer's liability arose from circumstances

*beyond his control or the detention being held
by the competent authority to be unjustified."*

Under Rule 7.1, a Government employee becomes disentitled to pay and allowances on his dismissal or removal from service. Rule 7.2 deals with the payment of subsistence allowance to an employee placed under suspension. Rule 7.3 (i) empowers the competent authority to decide in respect to the period of a Government employee who remained dismissed or removed or compulsorily retired or under suspension. Sub Rule (ii) of Rule 7.3, however, specifically prescribes that in the event of a Government employee who had been dismissed, removed or compulsorily retired and has been fully exonerated, upon reinstatement, he shall be paid full pay and allowances to which he would have been entitled to, had he not been dismissed, removed or compulsorily retired or suspended. Sub Rule (iii) of Rule 7.3 further provides for treating the entire period of suspension preceding dismissal, removal or compulsory retirement as a period spent on duty for all purposes in a case covered under Sub Rule (ii). Rule 7.5 specifically prescribes that in the event of a Government employee acquitted of the blame and it is proved that the official's liability arose from circumstances beyond control or the detention being held by the competent authority to be unjustified, he would be entitled to full salary.

In **Brahma Chandra Gupta v. Union of India, 1984 AIR**

(SC) 380 the Hon'ble Supreme Court while examining 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 aforenoticed judgments and having regard to the aforesaid, I am of the considered view that the petition deserved to succeed. Consequently, the impugned orders are set aside and writ petition is allowed. The petitioner is held entitled to the full pay and allowances during the period he remained under suspension.

Ordered accordingly.

January 14, 2016
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(**RITU BAHRI**)
JUDGE