

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1216 of 2012

Date of Decision:-16.12.2016.

Jasbir Singh

.....Appellant

Versus

Bhakra Beas Management Board and others

.....Respondents

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

Present: Mr. Raman Sharma, Advocate for the appellant.

Mr. Karan Nehra, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant appeal, the appellant has questioned the validity of the Trial Court order dated 20.8.2011 and Appellate Court order dated 2.12.2011. The appellant while working in the respondent Board he had applied leave on 11.5.2000. On 17.5.2000 an FIR was filed against him for the offences under Section 306 and 34 IPC. He was taken into custody on 17.5.2000. He was under custody till 17.8.2000. The appellant is stated to have reported on 24.8.2000. However, his duty report was not accepted apparently for the reasons that he was placed under suspension. The FIR filed on 17.5.2000 got cancelled on 19.11.2003. Thus, the respondents revoked the order of suspension on 3.12.2003. Arising out of these facts

and circumstances, the grievance of the petitioner is relating to monetary

benefits during the period from 17.5.2000 to 3.12.2003. The suit filed by the appellant was rejected on 20.8.2011. Consequently, he preferred appeal before the Appellate Court. His appeal was also rejected on 2.12.2011. Hence, the present appeal has been filed.

2.) Learned counsel for the appellant submitted that on 11.5.2000, he had applied for leave. No doubt he was under custody during the period from 17.5.2000 to 17.08.2000 pursuant to the FIR filed on 17.5.2000. Thereafter, he reported on 24.8.2000. The respondents did not permit him to report for duty. On 19.11.2003 FIR was cancelled. Therefore, the intervening period is required to be regulated since orders of suspension is based on the FIR filed on 17.5.2000. In view of the cancellation of FIR, allegations against the appellant is wiped out. Consequently, he is entitled for all the monetary benefits. It was further submitted that in identical matter, the respondent Board in the case of Charan Dass where he was also involved in identical criminal offence, has been granted the monetary benefits during the suspension period as well as till his reinstatement. Therefore, the Board has discriminated in the case of the appellant.

3.) On the other hand, learned counsel for the respondents submitted that the appellant was placed under suspension on the ground that he was facing criminal proceedings since FIR was filed on 17.5.2000 for the offences under Section 306 and 34 IPC. The petitioner failed to question the validity of the suspension order. Consequently, during his suspension period, he is entitled to only subsistence allowance and nothing else. Therefore, he is not entitled for any monetary benefits during the suspension period other than the subsistence allowance. Learned counsel for the

the appellant was released on bail reported before respondent Board. At the same time he has not questioned the validity of the suspension order as long as suspension order is intact till 3.12.2003, the date on which it was revoked, he is entitled to only subsistence allowance and question of reinstatement on the date of reporting on 24.8.2000 do not arise. Therefore, rightly the Trial and Appellate Court declined to grant relief to the appellant.

4.) Heard learned counsel for the parties.

5.) Crux of the matter is whether the appellant is entitled to monetary benefits during the suspension period i.e. 17.5.2000 to 3.12.2003 or not having regard to the conduct of the appellant that he himself is rightly or wrongly involved in the criminal case and got into trouble himself as he was arrested during the period from 17.5.2000 to 17.8.2000 and the offence is not relating to any service condition of the appellant. Therefore, even assuming that FIR was falsely filed against the appellant but still the respondent Board have not prevented the appellant to discharge the duties of the post during the period from 17.5.2000 till 17.8.2000 as he was under custody. Therefore, the respondent-Board were not in any way responsible for the act of the appellant. Hence, the appellant is not entitled for the allowances or any monetary benefits during the period from 17.5.2000 to 3.12.2003.

6.) Learned counsel in support of his claim he relied on two decisions of this Court, namely, (i) CWP No.22658 of 2014 disposed of on 29.7.2016 (**Ram Singh Vs. State of Punjab and others**) in which the matter is relating to involvement in criminal case for the offences under Section

He was dismissed from service. While regulating the dismissal from service this Court has taken note of that he is entitled for regulating the suspension period and it is not on account of merely criminal case. Therefore, the present decision is not applicable to the case in hand which is distinguishable on facts of the present case; and (ii) CWP No.26076 of 2013 disposed of on 24.7.2015 (**Jaswinder Kaur Vs. Punjab State Power Corporation Limited and others**). In this case, the petitioner was involved in a criminal case relating to offences under Section 468, 471 read with Section 120-B of the IPC read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988. This is a case where the petitioner while discharging the duties of the post in other words in connection with the service he was involved in a criminal case in which he was acquitted. Therefore, he is entitled. Whereas, in the case in hand, it is not relating to the appellant was not involved in a criminal case in connection with the service matter. Therefore, this decision is distinguishable from the case in hand.

7.) The respondents Board should have not regulated the suspension period from 17.5.2000 to 3.12.2003 after cancellation of FIR on 19.11.2003. Even the respondent Board have not initiated any disciplinary proceedings on the conduct of the appellant that he was involved in criminal case. Thus, it is bounden duty of the respondent-Board to regulate the suspension period as and when the FIR is cancelled i.e. on 19.11.2003. Thus, the respondents are directed to regulate the suspension period in accordance with law. Having regard to the fact that appellant was involved in a criminal case on 17.5.2000 in his personal capacity and the respondent-Board is not party to the criminal proceedings. The respondent-Board are

not entitled for any monetary benefits other than the subsistence allowance during the suspension period for the reasons that the appellant has not questioned the validity of the suspension order. Thus, the appellant has not made out a case so as to interfere with the order passed by the Trial Court as well as Appellate Court.

8.) Appeal stands rejected.

(P.B. BAJANTHRI)
JUDGE

December 16, 2016.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.