

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1482 of 2016 (O&M)

Date of Decision: August 19, 2016

Ramesh Kumar

.....Appellant

versus

Punjab School Education Board

.....Respondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Ms.Ekta Thakur, Advocate, for the appellant.

-. -

1. Whether Reporters of Local papers 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?

Surya Kant, J.

The appellant is dissatisfied with the order dated 04.03.2016 whereby learned Single Judge though ordered his reinstatement in service with notional seniority but has denied him the arrears of pay during the period when he was dismissed and remained out of service on account of his conviction in a case registered under Section 302 IPC.

[2] Learned Single Judge has viewed that since the dismissal from service was founded upon the conviction of appellant in a criminal case in which he has since been acquitted by the Appellate Court, namely, the High Court, hence he is entitled to reinstatement in service. As regard to arrears of pay, learned Single Judge has held and rightly so that right to reinstatement does not carry with it by necessary implications a right to back wages also. There are circumstances explained in a catena of decisions by the Hon'ble Supreme Court as cited in para No.3 of the order by learned Single Judge laying down that where dismissal from service cannot be

faulted with, the authorities cannot be burdened with salary for the work not performed or earned.

[3] Following the settled principles, it may be seen in the instant case that the appellant was involved in a criminal case registered under Section 302 IPC and as per the version contained in the FIR, one of the sharp edged injury to the deceased was attributed to him. He was allegedly found to be in possession of a knife also. The Sessions Judge held the appellant guilty, convicted him under Sections 302 IPC and sentenced to undergo life imprisonment.

[4] We have gone through the judgment dated 14.11.2013 passed by a Division Bench of this Court acquitting the appellant in the criminal case. The appellant has got the benefit of doubt due to one or the other lacunae noticed by this Court in the prosecution evidence. Be that as it may, the fact remains that once he was found guilty and convicted, the respondent-Authority had no choice but to dismiss him from service under the Constitutional mandate contained in Article 311(2) of the Constitution. The subsequent acquittal would obviously entitle the appellant to reinstatement but cannot be wind-fall of arrears of pay for the period when neither he worked nor can be said to have been deprived from performance of duties for a fault attributable to the Authorities.

No case to interfere with the order of learned Single Judge is made out.

Dismissed.

**[SURYA KANT]
JUDGE**

August 19, 2016

mohinder

**[SUDIP AHLUWALIA]
JUDGE**

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No

CM No.3114 of 2016 (O&M)

- - -

Ramesh Kumar versus Punjab School Education Board.

Present : Ms.Ekta Thakur, Advocate,
for the applicant-appellant.

* * *

Since we have decided the main appeal on merits, no separate order is required to be passed on the application for condonation of delay of 93 days in filing the appeal.

(SURYA KANT)
JUDGE

August 19, 2016
mohinder

(SUDIP AHLUWALIA)
JUDGE