

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.434 of 2016 (O&M)

Date of Decision: May 18, 2016

Suresh Kumar

.....Appellant

versus

Secretary, Department of Education, Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE A.B.CHAUDHARI.**

Present: Mr.Satish Goel, Advocate, for the appellant.

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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. (Oral)

The appellant assails the order dated 16.11.2015 whereby the learned Single Judge allowed his writ petition in part to the extent that the period of suspension w.e.f. 17.08.1988 till 09.10.2007 has been ordered to be treated as the 'period spent on duty' but consequential monetary benefits have been denied.

[2] The facts necessitated to pass the above-stated order are as follows;

[3] The appellant was serving as a Mathematics Teacher in Education Department, Punjab. He alongwith his father and some other family members were involved in a criminal case arising out of FIR No.128 dated 03.08.1988 registered at Police Station, Sangrur, registered under Sections 307, 325, 148 & 149 IPC. The

appellant was arrested and his custody period being more than 48 hours, he was deemed to be under suspension w.e.f. 17.08.1988. The trial Court acquitted the appellant and his co-accused but feeling aggrieved, the State of Punjab as well as the complainant preferred criminal appeal/revision before this Court. A Division Bench of this Court vide judgment dated 04.05.2007 accepted the prosecution version and believed the injured witness and held that “acquittal of the respondents cannot be justified”. However, the Division Bench “having regard to the statement made on behalf of Suresh Kumar” (present appellant) gave him benefit of doubt and acquitted him.

[4] As the appellant got benefit of doubt, the State of Punjab reinstated him in service but vide a separate self-speaking order dated 03.11.2011 (P-8), the Competent Authority held that suspension of the appellant was not wholly unjustified, hence he is not entitled to the pay and allowances under Rule 7.3-B(5) of the Punjab Civil Services Vol.I, Part-I, Rules and that the said period be treated as “period not spent on duty for each and every intent....”

[5] Learned Single Judge partly allowed the writ petition and modified the above-stated order to the extent the suspension period has been ordered to be treated as 'period spent on duty but without monetary benefits'.

[6] We have heard learned counsel for the appellant and gone through the record.

[7] Taking into consideration the fact that the appellant did

not serve the Education Department for 20 years; he has been drawing 75% subsistence allowance and his reinstatement in service appears to be purely for sympathetic considerations as he was near the age of retirement, we are satisfied that the appellant is not entitled to any additional monetary benefits.

[8] No case to interfere with the order under appeal is made out.

[9] Dismissed.

**[SURYA KANT]
JUDGE**

May 18, 2016
mohinder

**[A.B.CHAUDHARI]
JUDGE**