

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.641 of 2016 (O&M)

Date of Decision: May 03, 2016

Uttar Haryana Bijli Vitran Nigam, Haryana and another
.....Appellants

versus

Shambu Ram
.....Respondent

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

Present: Mr.Puneet Jindal, Senior Advocate with
Mr.Siddhant Kant, Advocate, for the appellants.

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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)

This letters patent appeal is directed against the order dated 23.07.2015 whereby the learned Single Judge has allowed the writ petition preferred by the respondent directing the appellant-Corporation to treat the suspension period of the respondent as 'period spent on duty' and consequently grant him full pay and allowances for the said period.

The facts are not in dispute. The respondent was working as Assistant Lineman with the appellant-Corporation when a case under the Prevention of Corruption Act was registered against him on 28.05.2003 with the allegations that he was caught red-handed while taking bribe of Rs.500/-. The respondent was placed under suspension on 28.05.2003 on account of his arrest in the criminal case.

The respondent was, however, acquitted in the above-stated case and it appears from the order passed by the learned Single Judge that he earned that acquittal on merits.

The appellant-Corporation simultaneously initiated disciplinary proceedings which ended up in awarding the punishment of 'warning'. In this process, the respondent remained under suspension for about 2½ years. The said suspension period was subsequently declared to be 'leave of the kind due'.

Aggrieved by that decision of the Authority, the respondent approached this Court and, as noticed at the outset, learned Single Judge has accepted his claim.

There appears to be some substance in the contention raised by learned counsel for the appellant that mere acquittal in a criminal case or award of lesser punishment does not obviate the effect of suspension and there cannot be automatic reinstatement. The law in this regard is well settled that even after acquittal in criminal case or exoneration in disciplinary proceedings, the Competent Authority is empowered to apply its mind and determine as to how to treat the period of suspension. Various factors would be relevant in deciding whether such period should be treated as 'leave of the kind due' or 'duty period'.

We are, however, not inclined to interfere in the discretion exercised by learned Single Judge for the reason that the financial impact of the order is insignificant and the cost of litigation would be much more than the actual arrears to which the respondent might be entitled to. Keeping in view this peculiar situation, we dismiss the appeal, leaving the question of law open but holding that the order passed by the

learned Single Judge shall not be taken as a binding precedent.
The appellant-Corporation is permitted to pay the consequential arrears without interest, within a period of three months from the date of receiving a certified copy of this order.

[SURYA KANT]
JUDGE

May 03, 2016
mohinder

[A.B.CHAUDHARI]
JUDGE

CM Nos.1321, 1322 and 1323 of 2016 in
LPA No.641 of 2016

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Uttar Haryana Bijli Vitran Nigam, Haryana and another
versus
Shambu Ram

Present : Mr.Puneet Jindal, Senior Advocate with
Mr.Siddhant Kant, Advocate,
for the applicant-appellants.

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CM No.1321 of 2016.

The application is allowed, as prayed for.

CM No.1322 of 2016.

For the reasons mentioned in the application, the
same is allowed subject to all just exceptions and 82 days'
delay in re-filing the appeal is condoned.

CM stands disposed of.

CM No.1323 of 2016.

For the reasons mentioned in the application, the
same is allowed subject to all just exceptions and 81 days'
delay in filing the appeal is condoned.

CM stands disposed of.

**(SURYA KANT)
JUDGE**

May 03, 2016
mohinder

**(A.B.CHAUDHARI)
JUDGE**