

**210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.11416 of 2012 (O&M)
Date of Decision : 14.03.2017**

Sub Inspector Ram Kishore No.14-R

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. R.K.Malik, Senior Advocate with
Mr. Tejpal Singh Dhull, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

This petition has been filed for issuance of a writ in the nature of certiorari to quash the order dated 08.02.2012 (P-8) by which it was ordered that period from 20.11.2008 to 28.12.2011 in which the petitioner remained out of service was directed to be treated as 'dies-non' and he be dis-entitled to any pay and allowances for the said period and further ordered that he would not be entitled to anything except the subsistence allowance already drawn for the suspension period from 04.10.2008 to 20.11.2008. The petitioner is also seeking direction to the respondents to pay full salary and allowances for the period from 04.10.2008 to 28.12.2011 alongwith interest on arrears.

Learned senior counsel for the petitioner states that the petitioner was working as a Sub Inspector when he was suspended on

A month and a half later he was dismissed from service after observing that an inquiry would not be expedient. He challenged that order by way of CWP No.1157 of 2010 and the same was allowed on 29.07.2010 and this Court held that there was no material to show that it would not be expedient to hold an inquiry. Thereafter, while the petitioner was being prosecuted in the criminal case and a regular inquiry was also lodged against him. By judgment dated 14.03.2011 he was acquitted in the criminal case and by an order dated 28.12.2011 the inquiry proceedings also culminated with the following order :-

“6. The corruptions charges leveled on the dismissed SI Ram Kishore during the departmental enquiry have not been proved in the investigation conducted by the Investigating Officer, I also agree with the verdict given by the Investigating officer. Apart from that Hon'ble Court has also acquitted the abovementioned dismissed SI of the charges under the Corruption Act.

7. After going through the whole proceedings, documents annexed with the file and final report of the inquiry officer, I reach to the conclusion that this departmental inquiry, dismissed SI Ram Kishore 14/R has been initiated under Corruption Act, in which according to the decision of Sh.Jagbir Singh Dahiya, Special Judge under Corruption Act, Jind SI has been exonerated from the (Corruption Act) charges and inquiry officer has also in his final report has found SI guilty only on the ground that he did not file report in DDR and I also could not find any material proof in the departmental inquiry by which dismissed SI Ram Kishore 14/R held guilty.

8. In spite of that he has committed severe negligence being posted as SHO by not making entry in DDR. DDR is considered as an important document of the police department,

which if regretted shows negligence on the part of police department, any by committing such small mistakes the image of the police department is being maligned. Thus, warning of being attentive in his duties was given to SI Ram Kishore 14/R by me for above negligence committed by him while posted as SHO and as far as regarding dismissal/duration of absence from duty of SI Ram Kishore R/14 is concerned, Assist-I, office police Superintendent, Railways, Haryana Ambala Cantt is requested to initiated proceedings according to rules. One copy of this order is given to dismissed SI Ram Kishore for information free of cost.”

Thereafter a notice was issued to the petitioner to show cause why the period during which he had remained either under suspension or out of job be not treated as dies-non. The petitioner filed a reply and after considering the same the impugned order (Annexure P-8) was passed.

Learned senior counsel for the petitioner has argued that firstly the order Annexure P-8 is a completely non-speaking order and secondly the direction to treat the period during which he remained out of service as dies-non is extremely harsh and completely dis-proportionate to the findings of the inquiry officer and the disciplinary authority.

I find merit in both the grounds. The order is a four line order in which no reason has been given. Secondly in view of the findings of the disciplinary authority which has been extracted above it is clear that he was ultimately found guilty only of a small misdemeanour and that is why was punished with a warning. It is trite to say that a warning is a lightest punishment in Govt. service jurisprudence. Looked at from this angle the order of declaring a period of more than 3 years as dies-non is ex-facie dis-proportionate to the misdemeanour proved against the petitioner.

In the circumstances the order Annexure P-8 is set aside and the respondent No.2 is directed to decide afresh the case of the petitioner by passing a speaking order. On the request of learned senior counsel the petitioner would be permitted to supplement his representation within a period of 10 days from the date of receipt of a certified copy of this order. Let necessary exercise be conducted within a period of two months.

Since the main case has been decided, the pending Civil Miscellaneous Application, if any, also stands disposed of.

**(AJAY TEWARI)
JUDGE**

14.03.2017
pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No