

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

CWP No.16960 of 2012 (O&M)

Date of Decision:11.09.2017

Nand Lal Verma

... Petitioner

Vs.

Chief Manager, Allahabad Bank and another

... Respondents

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

Present : Mr. R.S. Malhotra, Advocate for the petitioner.

Mr. Ram Chander, Advocate for respondents.

P.B. BAJANTHRI J. (Oral)

In the instant writ petition, petitioner's grievance is relating to entitlement of difference of salary during the suspension period from 25.11.1992 to 11.05.2001.

The petitioner was placed under suspension on 25.11.1992 on the allegation that FIR No.247 dated 28.9.1992 which was registered against the petitioner and two others. During pendency of this petition, respondents passed an order stating that petitioner is not entitled to relief sought in view of the fact that petitioner was not acquitted honourably of the criminal charge vide order dated 31.01.2008 passed by the Judicial Magistrate, since no clean chit was given by the learned Magistrate but acquitted by being given benefit of doubt due to non availability of incriminating evidence on court file. Thereafter on 20.1.2017, one more order was passed wherein the respondents have relied on MOS (Memorandum of Settlement dated 19.10.1966 in particularly Clause 19(3) (C) which relates to "if he be acquitted, it shall be open to the management to proceed against him under the provisions set out below in Clauses 11 and 12 infra relating to discharges. However, in the event of the management

deciding after enquiry not to continue him in service". Thus, the respondents have proceeded to hold that the petitioner is not entitled for any relief other than subsistence allowance.

In the case of M.P. Jindal v. State Bank of Patiala and others; 2013 (2) SLR 251. This Court while relying number of decisions held as under:

"No departmental proceedings were held against the petitioner. The petitioner though was initially suspended, however, during trial, he was reinstated but was again dismissed when he was convicted by the trial court. After his acquittal by this court, the petitioner represented for his reinstatement back in service. The same having been allowed, the petitioner was taken back in service. It is thereafter that the petitioner claimed that wages for the period he remained under suspension and/or dismissal be paid to him as he was not at fault. He was always ready and willing to work. The principle of 'no work no pay' will not be applicable in the case in hand as it could be applied in a case where though work is offered but the employee did not perform the same. It cannot be said that the case in which the petitioner was involved had no relation with his employment. It was not for something done by him in his personal life. It was only because he was working in the bank as Cashier that he was involved in the case merely because in discharge of his duty, he had received certain cash from a person on instructions from the Manager for deposit in his account. The amount was not recovered from his pocket, rather, it was in the cash box of the bank. The petitioner herein is the sufferer of the circumstances in the course of his employment. He cannot be aid to be at fault."

Undisputedly, the respondents have prevented the petitioner in discharging the duties of the post held by him between 1992 to 2001. No doubt suspension was warranted since petitioner was involved in an FIR

No.247 dated 28.9.1992. At the same time, respondents could have reviewed the order of suspension in view of the later development like filing of charge-sheet etc. The object of placing an employee under suspension is to see that he should not tamper the records. In other words, he could have placed under suspension till filing of charge-sheet. In the present case, no department inquiry has been initiated with reference to the initiation of criminal proceedings against the petitioner and two others. Therefore, order dated 20.01.2017 is redundant and it would not come in the way of extending benefits to the petitioner in view of M.P. Jindal's case cited supra. The respondents are hereby directed to calculate difference of salary from 25.11.1992 to 11.05.2001 and disburse it to the petitioner within a period of four months from the date of receipt of certified copy of this order.

Petition stands allowed accordingly.

11.09.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**