

**CM-14946-CWP-2016 in/and
CWP-16332-2016 (O&M)**

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

**CM-14946-CWP-2016 in/and
CWP-16332-2016 (O&M)
Date of Decision: January 11, 2017**

The Union Territory of Chandigarh through its Home Secretary and others
.....Petitioners

Versus

Shri Gulzar Singh and another

.....Respondents

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

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Harkesh Manuja, Advocate
for the petitioners.

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SURYA KANT, J.

CM-14946-CWP-2016

CM is allowed subject to all just exceptions. Annexure P-28 is
taken on record.

CM stands disposed of.

CWP-16332-2016

The Chandigarh Administration and its authorities in the
Department of Transport are aggrieved by the order dated 04.04.2016 passed
by Central Administrative Tribunal, Chandigarh Bench (for brevity, 'the
Tribunal') vide which suspension period of respondent No.1 from
13.01.2004 to 13.08.2004 and 02.12.2005 to 31.01.2007 has been ordered to
be treated as duty period for all intents and purposes.

Transport undertaking. He was found absent from duty on 17.01.2004 and when his explanation was sought, he informed his implication in a criminal case under Sections 406, 420, 465, 467, 468, 471 and 120-B IPC registered vide FIR No.260 dated 09.10.2003 which was got registered by a private person and in which he remained arrested from 13.01.2004 till bail was granted on 27.01.2004.

[3] The petitioner -authorities nevertheless charge-sheeted the first respondent on the ground that he misled them. The enquiry was held and the charge was claimed to have been proved. The first respondent was dismissed from service. He filed departmental appeal which was allowed in part and the punishment was reduced to imprisonment of stoppage of four Annual Grade Increments with cumulative effect. Still aggrieved, the first respondent approached the Tribunal. His original application was allowed and the authorities were directed to restore the increments and pay the arrears within three months. The Tribunal held that the only charge levelled against the respondent was that he had misled the office and since no such charge was proved against him during enquiry, no punishment could be imposed.

[4] The first respondent was thus reinstated in service but the period of his suspension as well as the period during which he remained out of service due to dismissal, was treated as 'leave of the kind due'. He again approached the Tribunal and his Original Application was disposed of with a direction that he may be heard after giving a show cause notice and then appropriate orders be passed. Since the authorities again treated the above

mentioned period as leave of the kind due, the first respondent then approached the Tribunal third time. Vide order under challenge, the Tribunal has held that since the disciplinary proceedings were quashed and it was held that no charge was proved against the respondent, he is entitled to be treated on duty for the period during which he remained under suspension or out of service due to dismissal order.

[5] The Tribunal has in this regard relied upon Rule 7.3(2) of the Punjab Civil Services Rules, Volume I, Part I, according to which once the punishment order is set aside, the period of suspension or the period during which an employee remained out of service is required to be treated as spent on duty for all intents and purposes. A binding precedent laying down such principles has also been relied upon by the Tribunal.

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

[7] In view of the fact that the disciplinary proceedings were set aside on merits laying down that no misconduct was conducted by the first respondent, he is entitled to be treated on duty for the period during which he remained under suspension or out of service. No exception can, thus, be made to the view taken by the Tribunal.

[8] Dismissed.

**(SURYA KANT)
JUDGE**

January 11, 2017
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**(SUDIP AHLUWALIA)
JUDGE**