

In the High Court of Punjab and Haryana at Chandigarh

**CWP No. 19858 of 2016**  
**Date of Decision: March 30, 2017**

*Karambir Singh*

*... Petitioner*

*Versus*

*State of Haryana and others*

*... Respondents*

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

Present: Mr. G.S. Bedi, Advocate,  
for the petitioner.

Mr. Karan Sharma, AAG, Haryana.

**P.B. Bajanthri, J. (Oral)**

1. Short question for consideration in the present petition is whether order of reversion dated 16.09.2016 from the post of ASI to Head Constable is correct or not.

2. Admittedly, the petitioner was facing criminal proceedings as on the date of promotion to the post of ASI on 10.11.2015. The same was ignored by the competent authority while promoting the petitioner to the post of ASI. Later on in the year 2016, they came to know that criminal case is pending consideration as on the date of promotion but before passing order of reversion dated 16.09.2016, the petitioner is stated to have been acquitted in criminal case on 12.05.2016. In view of these later developments, even assuming that the order of reversion is upheld, still the petitioner's case is required to be considered for promotion to the post of ASI w.e.f. 10.11.2015 having regard to the fact that the petitioner has been

acquitted in criminal case. Supreme Court in the case of ***Union of India and others vs. K.V. Jankiraman and others***, reported in ***(1991) 4 SCC 109***, in para no.26 held as under:-

*“26. We are, therefore, broadly in agreement with the finding of the Tribunal that when an employee is completely exonerated meaning thereby that he is not found blameworthy in the least and is not visited with the penalty even of censure, he has to be given the benefit of the salary of the higher post along with the other benefits from the date on which he would have normally been promoted but for the disciplinary/ criminal proceedings. However, there may be cases where the proceedings, whether disciplinary or criminal, are, for example, delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee etc. In such circumstances, the concerned authorities must be vested with the power to decide whether the employee at all deserves any salary for the intervening period and if he does, the extent to which he deserves it. Life being complex, it is not possible to anticipate and enumerate exhaustively all the circumstances under which such consideration may become necessary. To ignore, however, such circumstances when they exist and lay down an inflexible rule that in every case when an employee is exonerated in disciplinary/ criminal proceedings he should be entitled to all salary for the intervening period is to undermine discipline in the administration and jeopardise public interests. We are, therefore, unable to agree with the Tribunal that to deny the salary to an employee would in all circumstances be illegal. While, therefore, we do not approve of the said last sentence in the first sub-paragraph after clause (iii) of paragraph 3 of the said Memorandum, viz. "but*

*no arrears of pay shall be payable to him for the period of notional promotion preceding the date of actual promotion", we direct that in place of the said sentence the following sentence be read in the Memorandum:*

*"However, whether the officer concerned will be entitled to any arrears of pay for the period of notional promotion preceding the date of actual promotion, and if so to what extent, will be decided by the concerned authority by taking into consideration all the facts and circumstances of the disciplinary proceeding/criminal prosecution. Where the authority denies arrears of salary or part of it, it will record its reasons for doing so."*

3. Learned State counsel submitted that State has filed criminal appeal against the acquittal. Irrespective of filing of an appeal, if the date of reversion is taken into consideration as on the said date criminal case was closed. Consequently, petitioner is entitled for promotion to the post of ASI w.e.f. 10.11.2015. Hence, order of reversion is set aside. The petitioner is entitled for all consequential benefits as if he has been promoted w.e.f. 10.11.2015 to the post of ASI.

4. Accordingly, instant writ petition stands allowed.

**March 30, 2017**  
vkd

**[P.B. Bajanthri]**  
**Judge**

Whether speaking / reasoned : Yes

Whether reportable : No