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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.24650 of 2014

Date of Decision : 03.08.2017

SATBIR SINGH

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ramesh Goyat, Advocate for the petitioner.

Mr. R.K. Doon, AAG, Haryana.

AMOL RATTAN SINGH, JUDGE (ORAL)

The petitioner in this case seeks quashing of the orders Annexures P6 and P7, the first having been passed by the Superintending Engineer, Yamuna Water Services Circle, Bhiwani (respondent No.3), directing that the periods during which the petitioners' services remained suspended, w.e.f. 04.03.2009 to 19.11.2010 and 16.12.2010 to 14.07.2011, were being regularized by treating the said period to be leave of the kind due to the petitioner, subject to sanction of leave from the competent authority.

The consequent order (Annexure P-7), has been passed by the Executive Engineer, Bhiwani Water Services Division, Bhiwani, (respondent No.4), treating the period from 04.03.2009 to 21.02.2010 as earned leave of 355 days.

The contention of the petitioner is that he was placed under

suspension on account of an FIR having been registered against him for the alleged commission of an offence punishable under Section 216 of the IPC, i.e. he allegedly harboured a proclaimed offender.

Though in the criminal proceedings, the said proclaimed offender, Sadhu Ram, was convicted for the commission of an offence punishable under Section 174A of the IPC, the petitioner, Satbir Singh, was extended the benefit of doubt and was acquitted of the charge framed against him.

Thus, learned counsel submits that the petitioner having been acquitted, the action of the respondents in treating his period of suspension from service not to be duty period but period spent by him on earned leave of 355 days, is wholly unjustified as, after his acquittal and reinstatement into service, he should have been treated to be on duty during that period. He draws attention to Rule 7.5 of the Punjab Civil Services Rules, Vol. I, Part I (as applicable to the State of Haryana), which reads as follows:-

“An employee of Government against whom proceedings have been taken either for his arrest for debt or on a criminal charge or who is detained under any law providing for preventive detention should be considered as under suspension for any periods during which he is detained in custody or is undergoing imprisonment, and not allowed to draw any pay and allowances (other than any subsistence allowance that may be granted in accordance with the principal laid down in rule 7.2) for such periods until the final termination of the proceedings taken against

him or until he is released from detention and allowed to rejoin duty, as the case may be. An adjustment of his allowances for such periods should thereafter be made according to the circumstances of the case, the full amount being given only in the event of the officer being acquitted of blame or (if the proceedings taken against him were for his arrest for debt), of it being proved that the officer's liability arose from circumstances beyond his control or the detention held by the competent authority to be unjustified.”

Thus, the petitioner having been acquitted, learned counsel submits that simply because he was acquitted having been granted benefit of doubt, the period of suspension cannot be treated to be non duty period but, instead, period spent on leave. He further places reliance in this regard upon a judgment of a co-ordinate Bench of this Court in CWP No.2658 of 2010 '**Ram Dhari versus State of Haryana and others**', decided on 05.01.2011, a copy of which has been annexed as Annexure P-8 with the petition. The judgment in CWP No.7178 of 2002 '**Bhim Singh versus State of Haryana and others**', decided on 12.03.2012, a copy of which has been annexed as (Annexure P-9), has also been relied upon to the same effect, to submit that once Rule 7.5 aforesaid stipulates that upon a person having been acquitted of blame, the full amount would be due to him for the period that he remain under suspension, it is mandatorily to be given to him. The petitioner is necessarily to be paid the entire amount of salary due to him for the said period.

In the reply filed by the respondents, the reasoning given to justify the impugned orders, is to the effect that acquittal after a criminal case registered against an employee does not “automatically entitle him to get full pay and allowances for the suspension period”. It has been mentioned as follows:-

“That it is pertinent to mention here that as per the law laid down by the Hon'ble Apex Court of India, when a Govt. employee is suspended on the ground of being arrested of criminal offences his subsequent acquittal does not automatically entitle him to get full pay and allowances for the suspension period where the regulation leaves it to the discretion of the employer regarding such entitlement.”

It has further been stated that the petitioner is not entitled to full pay for the period in question, on the principle of “no work no pay.”

As to how the respondents can take either of the two stands is not understood, firstly in view of the ratio of the aforesaid judgments of this Court, and as regards the principle of “no work no pay,” the petitioners' services having been placed under suspension and he not having been either dismissed from service or having been absent from service, the invocation of the principle is itself wholly without basis.

Therefore, seeing no reason to disagree with the ratio of the aforesaid judgments, which are respectfully followed, this petition is allowed and the impugned orders (Annexures P-6 and P-7) are hereby quashed. The petitioner is directed to be paid the complete salary and allowances due to him for the periods that his services remained suspended.

The payment be made to him within a period of three months from the date of receipt of a certified copy of this order.

(AMOL RATTAN SINGH)
JUDGE

August 03, 2017
rajneesh

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No