

IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

252

CWP-4532-2016
Decided on 09.02.2017

SHAMSHER SINGH

...PETITIONER

VS

STATE OF HARYANA & OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Inder Pal Goyat, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G. Haryana

AJAY TEWARI, J.(Oral)

By this petition, the petitioner claims that his suspension period of 29.05.2010 to 12.10.2012 be treated as duty period instead of leave of the kind due.

Brief facts of the case are that the petitioner was posted in Government High School, Rajgarh Dhobi (Jind) as Master Social Studies. A matrimonial dispute in FIR No. 171 dated 18.09.2009 under Section 406/498-A IPC was registered against him and he was suspended from service due to this FIR. Petitioner was acquitted in the said case and he was reinstated on service by respondent No. 2 but that suspension period was counted as leave of kind due.

As per learned counsel for the petitioner, petitioner was acquitted and it was incumbent upon the respondent No.2 to have treated this period of suspension as duty period. He has relied upon the judgment of this Court passed in the matter of “**Sukh Devi vs. Haryana Vidyut Parsaran Nigam Limited, 2014(2)PLR 479.**”

“In the present case, the respondents had not taken disciplinary proceedings against the husband of the petitioner for his conduct which led to the trial and his acquittal. The acquittal of the husband of the petitioner has been upheld by Hon'ble the Apex Court vide Annexure P3. It is not a case where any motive can be attributed to the petitioner for staying away from the official duties. It was always open to the respondents to initiate departmental proceedings and punish him on the basis of conduct leading to his conviction. The respondents having not opted to follow the said course, cannot deny the benefit of full emoluments of the suspension period. The petition is allowed. Letter dated 13.6.2008, Annexure P5, and letter dated 30.1.2009, Annexure P6, are set aside. It is directed that the respondents will release the entire salary for the suspension period from 30.7.2001 to 24.4.2003 after adjusting the subsistence allowance already paid within a period of three months after the receipt of certified copy of this order. In case the amount is not released within a period of three months after the receipt of a certified copy of this order, the petitioner will be entitled to interest on the amount due @ 12 per cent per annum. Petition allowed.”

Learned Addl. AG is not in a position to cite any contrary judgment, even otherwise it is established position of law. Consequently, this petition is allowed and respondent No. 2 is directed to pay all due amount within the period of three months, failing which the petitioner would be entitled to claim interest @ 12 % per annum on the amount/s from the date/s it fell due.

09.02.2017
anuradha

(AJAY TEWARI)
JUDGE

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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No