

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

CWP No.8541 of 2013

Date of Decision:06.02.2017

Inder Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

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

Present : Mr. Arvind Galav, Advocate for the petitioner.

Mr. Harish Rathee, Sr. D.A.G. Haryana.

Mr. Durgesh Aggarwal, Advocate for respondents No.2 and 3.

P.B. BAJANTHRI J.

In the instant petition, the petitioner has assailed the order dated 9.10.2012 by which the respondents have rejected the claim of the petitioner for payment of salary for the period from 13.1.2006 to 24.6.2009.

The petitioner while working as Work Mistry was subjected to criminal proceedings for misappropriation of fund of Housing Board Haryana among others. On account of criminal proceedings, his services were dismissed on 13.1.2006. Feeling aggrieved by the order of dismissal, he preferred an appeal before the appellate authority. The appellate authority allowed the appeal on 15.4.2009. Consequently, petitioner was taken back in service i.e. he had been reinstated on 24.7.2009. Thereafter, the respondents have initiated disciplinary proceedings on 24.8.2009. It was concluded in imposing the penalty of recovery and stoppage of

increments with cumulative effect on 17.6.2010. In this background, whether the petitioner is entitled for salary for the period from 13.1.2006 to 24.6.2009 or not?

Admittedly, the petitioner's services have been dispensed with on 13.1.2006 and the said order was set aside by the appellate authority on 15.4.2009 and ordered for reinstatement. Thus, the petitioner has been taken back to duty on 24.6.2009. The order dispensing the petitioner's service is not existing in the eye of law as on 15.4.2009 by virtue of the order passed by the appellate authority. Therefore, stand of the respondents while taking into account the subsequent events i.e. relating to initiation of disciplinary proceedings on 24.8.2009 that earlier period dated 13.1.2006 to 24.6.2009 would not be treated as duty period for all purposes cannot be accepted for the reasons that penalty order dated 17.6.2010 is with reference to initiation of disciplinary proceedings on 24.8.2009. Therefore, earlier period dated 13.1.2006 to 24.6.2009 has nothing to do with the disciplinary proceedings initiation on 24.8.2009.

Accordingly, order dated 9.10.2012 is set aside. The respondents are directed to calculate arrears of pay for the period from 13.1.2006 to 24.6.2009 and disburse the same to the petitioner within a period of six months from today.

Petition stands allowed.

06.02.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**