

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

RSA No. 2784 of 2015 (O&M)
Date of decision : November 17, 2017

State of Punjab and others,

..... Appellants

v.

Constable Bahadur Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. HS Sitta, Advocate
for the appellant.

Mr. Ashish Grover, Advocate
for the respondent.

Ajay Tewari, J (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing the suit of the respondent wherein he had claimed that on his acquittal, he was entitled to full pay and allowances for the period he remained dismissed, since he was not found guilty in any departmental inquiry and his acquittal was not on the benefit of doubt.

In this case, the conviction was under Section 324 read with Section 323 of the IPC. Ultimately, in an appeal this Court found that this case was a case of free fight and, therefore, a case of clean exoneration.

Both the Courts held that once the respondent had been acquitted for want of evidence and not on the benefit of doubt, it would be taken that he was fully exonerated in the criminal trial and since an inquiry

which was launched into the same allegations was dropped by the appellant it had to be held that even the appellant had exonerated the respondent in those proceedings also.

Learned AAG Punjab has argued that under Rule 7.3(1) of the Punjab Civil Services Rules, Vol. I, Part I, Chapter VII, the competent authority has to take a conscious decision and the relief cannot be claimed as of right. However, Rule 7.3(2) of the said Rules is to the following effect :-

“ 7.3(2) Whether the authority competent to order reinstatement is of the opinion that the Government employee, who had been dismissed, removed or compulsorily retired, has been fully exonerated, the Government employee shall, subject to the provisions of sub-rule (6), be paid his full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended, prior to such dismissal, removal or compulsory retirement, as the case may be :

Provided that where such authority is of opinion that the termination of the proceedings instituted against the government employee had been delayed due to reasons directly attributable to the Government employee it may, after giving him an opportunity to make representation and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Government employee shall, subject to the provisions of sub-rule (7), be paid for the period of such delay only such amount (not being the whole) of pay and allowances as it may determine.”

In my opinion, this sub-rule completely covers the case of the respondent, since in the present case, as mentioned above, he was acquitted not on the benefit of doubt but on the paucity of evidence and the departmental proceedings which had been initiated against him had been dropped. In this connection, reference may be made to the decisions of this Court in Sucha Singh v. State of Punjab and others, 2014(11) RCR (Civil) 412, and Balbir Singh v. State of Haryana 2014(3) SCT 451. Learned AAG

Punjab is not in a position to cite any contrary judgment. Consequently, finding no merit in this appeal, the same is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

November 17, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No