

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12924 of 2013

Date of Decision: 20.08.2018

Shukant Raj

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ram Darshan Yadav, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, DAG, Haryana.

RAJIV NARAIN RAINA, J.(Oral)

1. There is a great deal of judicial precedent in support of the principle that an employee when involved in a criminal case, the accusation which has nothing to do with his employment, then the period spent in custody or as under trial when not on bail or after conviction by a trial court on a criminal charge not related to employment will not bring with it the relief of back wages on reinstatement in the event it is sought from a court of law.

2. The petitioner was convicted by the trial Court and in appeal he was acquitted by the High Court. The offence of which the petitioner was acquitted was not committed during the course of his employment but on a charge of rape. There was no fault of the employer to deny labour for the period not spent on duty. It was the action of the petitioner himself which dragged him to criminal litigation.

3. Rule 7.5 of the CSR relied upon by the learned counsel for the petitioner was dealt with by me in *Balbir Singh v. State of Haryana and*

others observing as under:-

*“The structure of the rule is built around acquittal from blame on a criminal charge or if it is proved that the official's liability arose from circumstances beyond his control or the detention being held by the competent authority to be unjustified. It would be well to remember that the petitioner was acquitted of murder and other serious charges by giving him the benefit of doubt. In criminal law such an acquittal even though based on benefit of doubt is taken as proof of innocence and there may be no great difference between honorable acquittal and acquittal by giving the benefit of doubt. However, in service law the meaning can be different, with different hues and diverse fallouts on the relief sought from the administrator and then from the Court. This vital difference has been explained recently in the context of false declarations made to procure appointment to public service in the police department and fitness for appointment or retention in service on discovery of false declarations in attestation forms by the Supreme Court in relation to service law in **Commissioner of Police, New Delhi v. Mehar Singh; (2013) 7 SCC 685.***

There is therefore no automatic right to back wages and other financial benefits on reinstatement for the period spent out of service on dismissal on conviction and much would depend on the facts of each case.”

4. The view has been upheld by the Letters Patent Bench in LPA No.514 of 2014, *Babir Singh v. State of Haryana and others*, decided on August 13, 2014. The Special Leave to Appeal (C) No.32766 of 2014 in *Balbir Singh* case has been dismissed by the Supreme Court on December 08, 2014. In addition, reference may be made to the decision of the Supreme

Court in Union of India and others v. Jaipal Singh, (2004) 1 SCC 121 where back wages were denied because the employer could not be blamed and made liable for the personal conduct of the employee.

5. Accordingly, the decision of the Division Bench in *Shashi Kumar v. Uttri Haryana Bijli Vitran Nigam and another*, 2005 (1) RSJ 718 relied upon by the petitioner is not applicable to the facts of this case for the reason that it was a case arising out of the Prevention of Corruption Act, 1988 the charge brought by prosecution for bribe during the course of employment failing to bring home the guilt. In *Balbir Singh's* case, I have dealt with this judgment in para.8 and distinguished it. The petitioner cannot assert as a matter of right back wages for the period he was not in service out of service and was unable to perform duties. The State had nothing to do with the criminal case and cannot be burdened by payment of salary for the period claimed.

6. No ground is made out for interference.

7. The petition stands dismissed.

(RAJIV NARAIN RAINA)
JUDGE

20.08.2018

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Whether speaking/reasoned Yes

Whether reportable No