

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

**CWP No.13845 of 2015
Date of decision: 25.10.2018**

Pargat Singh

...Petitioner

Vs.

State of Punjab and Ors.

...Respondents

CORAM:HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Harbans Sharma, Advocate for the petitioner.

Ms. Bhawna Gupta, DAG, Punjab.

JITENDRA CHAUHAN, J.(ORAL)

By filing the instant petition under Articles 226 and 227 of Constitution of India, the petitioner, *inter alia*, seeks issuance of a direction to the respondents to grant full pay and allowance for the period of dismissal from 11.08.2008 to 22.09.2009 (408 days) on his acquittal in criminal case.

It is contended that the sole basis of imposing punishment of dismissal vide order dated 11.08.2008 (Annexure P-2) from service was petitioner's conviction in FIR No.88 dated 02.09.1988 registered under Sections 13(1) and (2) of the Prevention of Corruption Act, 1988, at P.S. Vigilance Bureau, Patiala, vide judgment dated 19.08.2004, passed by learned Special Judge, Sangrur. Aggrieved against the conviction, the petitioner preferred CRA-S-1644-SB-2004 which was allowed by this Court

on 14.05.2009 (Annexure P-3), and the petitioner was acquitted of the charges framed against him by giving him benefit of reasonable doubt. Thereafter, the petitioner was reinstated in service vide order dated 17.09.2009 and endorsed vide letter dated 22.09.2009 (Annexure P-5). The grouse of the petitioner is that the period of dismissal from 11.08.2008 to 22.09.2009 has been treated as period of leave of the kind due which is against the provisions of Rules 7.2 and 7.3 of the Punjab Civil Services Rules Vol. I Part I, Chapter VII.

On the other hand, learned counsel states that the request made by the petitioner for treating the period of dismissal as leave period stands allowed and he is now estopped to raise this plea in the instant petition.

Heard.

Sub Rules (1) and (2) of Rule 7.3 ((ibid) read thus:-

“7.3. (1) When a Government employee, who has been dismissed, removed or compulsorily retired, is reinstated as a result of appeal, revision or review, or would have been so reinstated but for his retirement on superannuation while under suspension or not, the authority competent to order re-instatement shall consider and make a specific order—

(a) regarding the pay and allowances to be paid to the Government employee for the period of his absence from duty including the period of suspension, preceding his dismissal, removal or compulsory retirement, as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty.

(2) Where the authority competent to order re-instatement is of 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 the instant case, the petitioner was constrained to remain out of job on account of registration of a criminal case under the Prevention of Corruption Act on the allegations of amassing wealth disproportionate to his known sources of income. The petitioner was ultimately acquitted of all the charges. From the perusal of provisions Rule 7.3 (ibid), it is apparent that a government employee who stood dismissed, removed, compulsorily retired or suspended, is reinstated upon being fully exonerated, shall be entitled to grant of full pay and allowances to which he would have been otherwise entitled to.

Learned counsel for the petitioner has also placed reliance on

order dated 03.03.2012 (Annexure P-10) passed in respect of one Bhupinder Singh, DSP. Said employee was earlier dismissed from service on account of conviction in a criminal case by the trial Court. However, he earned acquittal in the criminal appeal preferred by him before this Court. Thereafter, relying upon Rule 7.3 (A)(3) (ibid), the period of his dismissal was treated as duty period and thus, granted full salary for the period in question. This Court does not see any reason to deny the same relief to the petitioner, especially, when there is no material on record to conclude that it was on the request of the petitioner that his period of dismissal was treated as period on leave.

As a sequel of the above discussion, the instant petition is allowed; the petitioner is held entitled to pay and allowances for the period of dismissal from 11.08.2008 to 22.09.2009 (408 days), which shall be released to him within a period of eight weeks from the date of receipt of a certified copy of this judgment.

(JITENDRA CHAUHAN)
JUDGE

25.10.2018
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Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*