

In the High Court of Punjab and Haryana at Chandigarh

CWP No.15463 of 2015

Date of decision: November 16, 2018

Bhajan Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Baltej Singh Sidhu, Advocate for the petitioner.
Mr. H.S. Sullar, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

The present writ petition has been filed by petitioner Bhajan Singh challenging the order dated 13.04.2015 (Annexure P-2) passed by the District Education Officer, Mansa by which the petitioner has been denied the salary for the period 21.03.1997 till 31.08.1998 when the petitioner attained the age of superannuation. The claim was made by the petitioner for the salary for the period when the petitioner remained suspended on the ground that there was no inquiry, which was held and the termination order, which was passed by the Managing Committee after his retirement in the year 2000, has already been set aside by the Director Education Department, Punjab vide his order dated 10.01.2001 (Annexure P-1). The order of termination has been set aside on the ground that on

Committee was not competent to do so as the term of the Managing Committee has already come to an end on 12.08.1999. Another reason given for setting aside the order of termination dated 18.10.2000 is that before the dismissal of an employee, the approval of the Director Public Instruction is necessary under the Rules, which were never taken. While setting aside the order of termination, a direction was given that appropriate pensionary benefits be given to the petitioner, who has already retired.

After the notice of motion, the State has filed reply and has supported the order dated 13.04.2015 on the ground that the petitioner remained under the suspension and hence did not perform his duties and, therefore, he cannot be paid the full salary. It has been mentioned that during the period of suspension, the petitioner was paid the subsistence allowance for which he was entitled for.

I have heard the counsel for the parties.

An employee is placed under suspension so as to hold the departmental proceedings on the allegations levelled against the employee. It is a settled proposition of law that in case an employee is found guilty of the allegations and is punished then an employee is not entitled to anything more than what has been paid to him/her during the period of suspension but in case the employee is found innocent, then the employee cannot be punished by withholding the full salary during the period of suspension on the ground that the employee did not work. The petitioner did not

perform the duties during the period of suspension only due to the suspension order passed by the department.

Further, there is nothing on record to show that any inquiry was held against the petitioner or he was found guilty of the allegations. The order of dismissal had already been set aside by the Director Public Instruction holding the same to be illegal. There is no justification with the respondents to deny the petitioner the full salary for the period he remained under suspension.

In these circumstances, the writ petition is allowed. The respondents are directed to pay the petitioner the salary for the period he remained under suspension. Counsel for the petitioner prays for an interest on the payment as well. In the present case, there is no justification for the same. The petitioner be only paid his salary for the period he remained under suspension after deducting the subsistence allowance already paid. Let the salary be calculated within a period of four months from the date of receipt of a certified copy of this order and be paid to the petitioner expeditiously within one month thereafter. There will be no order as to costs.

(HARSIMRAN SINGH SETHI)

JUDGE

November 16, 2018

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Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No