

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.9684 of 2015

Date of decision : 04.07.2018

Keshav Dutt

...Petitioner

versus

Uttri Haryana Bijli Vitran Nitgam Ltd., Panchkula and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: .Mr.R.K.Handa, Advocate, for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana.

RITU BAHRI J. (Oral)

Petitioner is seeking for issuance of a writ in the nature of Certiorari to quash the orders dated 30.01.2013 (Annexure P-5) passed by respondent No.5 and 06.08.2014 (Annexure P-8) passed by respondent No.2 vide which the dismissal period of the petitioners w.e.f. 05.05.2006 to 30.11.2010 has been ordered to be treated as leave of kind due instead of duty period despite acquittal of the petitioners in the corruption case and also dropping the charge-sheet against him.

The brief facts of the case are that petitioner was appointed as Assistant Line Man in the respondent-department on 19.01.1985. His service record was very good. However, on a false complaint, a case bearing FIR No.08 dated 30.04.2002 was registered against the petitioner under Sections 13(1) (d) of the Prevention of Corruption Act, 1988 and in that case petitioner convicted and sentenced to undergo RI for a period of three years and to pay a fine of Rs.2000/- and in default of payment of fine, further to undergo RI for six months. However, he was acquitted vide order dated 19.08.2010 (Annexure P-1). A disciplinary proceedings were against the petitioner. Vide order dated 01.12.2010 (Annexure P-2), he was reinstated in service and thereafter vide order dated 05.07.2010 (Annexure P-3). However, his request for regularization of dismissal period w.e.f. 05.05.2006 to 30.11.2010 has been declined vide order dated 30.01.2013 (Annexure P-5) and even his mercy appeal was dismissed vide order dated 15.11.2013 and 06.08.2014 (Annexure P-7 and P-8).

After the acquittal of the criminal trial the short question for consideration is that whether Rule 7.3 of Punjab Civil Service Rules is applicable in the respondent-Nigam. This question came up for consideration before this Court in the case of Balwan Singh Vs. D.H.B.V.N. And others in case of CWP No.8512 of 2015 whereby, after acquittal, the petitioner was made entitle to pay and allowances for the period he has remained out of service and for the duration of his suspension period as well. The petitioner has also placed on record similar situated case (Annexure P-9) wherein, one employee i.e. Mr.R.K.Gulati has been given the same benefit as prayed by the petitioner.

The above mentioned judgments are directly applicable to the facts of the present case where the petitioner was initially convicted but later on was acquitted by this Court and hence, he is entitled to all the consequential benefits and no departmental inquiry can be initiated against him on absolutely identical and same charges, as the petitioner has faced the criminal proceedings and has been acquitted by this court vide order dated 19.08.2010 (Annexure P-1).

In view of the above and in terms of Rule 7.5 of Punjab Civil Services Rules, orders dated 30.01.2013 (Annexure P-5) passed by respondent No.5 and 06.08.2014 (Annexure P-8) passed by respondent No.2 are hereby quashed and the petitioner is entitled to all consequential benefits. The respondent-department is directed to release all the consequential benefits i.e. promotion, regularization of the period in which he remained out of service and release the salary and all the retiral benefits from the date of superannuation etc. The present writ petition stands allowed.

04.07.2018
Anil

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>