

225

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

**CWP-17213-2015 (O&M)
Date of Decision : 05.04.2019**

Siri Pal

...Petitioner

vs.

Uttar Haryana Bijli Vitran Nigam Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Suresh Ahlawat, Advocate
for the petitioner.

Mr. Suvir Sehgal, Advocate
for the respondents.

Arun Monga, J. (Oral)

The present petition has been filed, *inter alia*, for issuance of a writ in the nature of Certiorari to quash the impugned order dated 04.04.2014 (Annexure P-3), passed by respondent No. 3 and order dated 21.05.2015 (Annexure P-5), passed by the Appellate Authority, whereby, on the reinstatement of the petitioner instead of paying the salary due to him for the period of suspension, the same has been treated as Leave of the kind Due.

2. The admitted facts in the present case are that the petitioner was suspended on 04.12.2011 and was reinstated on 19.07.2013, after he was exonerated in the departmental proceedings and also acquitted in the collateral criminal proceedings arising out of the same set of allegations under the Prevention of Corruption Act, 1988.

3. Learned counsel for the petitioner argues that the impugned orders are contrary to Rule 7.3 of the Punjab Civil Services Rules, Vol I Part I as also

the judgment rendered by this Court in **CWP-5187-2012** titled as **Parabhu Dayal Madan Versus State of Haryana and another** (Annexure P-6) decided on 30.05.2014.

4. Before proceeding with the matter, it would be instructive to reproduce Rule 7.3, *ibid*, as below:-

“7.3(1) When a Government employee, who has been dismissed, removed or compulsory retired, or suspended, is reinstated, or would have been reinstated but for his retirement on superannuation 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, occasioned by suspension and/or dismissal, removal or compulsory retirement ending with his reinstatement on or the date of his retirement on superannuation 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 mentioned in sub rule (1) is of opinion that the Government employee has been fully exonerated or, in the case of suspension, that it was wholly unjustified, the Government employee shall be given the full pay and allowances to which he would have been entitled, had he not been dismissed, removed, compulsorily retired or suspended, as the case may be.”

5. As regard the reliance placed by learned counsel for the petitioner on the judgment in **Parabhu Dayal Madan's case (supra)** wherein Rule 7.3, *ibid*, has been interpreted, the relevant is extracted herein below:-

*“It is clear from the said rules that the petitioner is entitled for full salary and period of absence from duty is to be treated as period spent on duty for all purposes. The issue in the present petition is squarely covered by Mathura Dass's case (supra). The said judgment of this Court has been passed after relying upon the judgment of Hon'ble the Apex Court in case **Union of India vs K.V. Jankiraman etc., AIR 1991 Supreme Court 2010**. It was held in the said judgment that when an employee is completely exonerated in criminal/disciplinary proceedings*

and he is not visited with the penalty even of censure, he would not be deprived of any benefits including salary on the post he was working upon. Even it has been held in the said judgment that the normal rule of “no work no pay” is not applicable to such cases as the petitioner was willing to work but he was kept away from the work without having any fault on his part.”

6. A collective reading of the rule, *ibid*, as also the judgment rendered by this Court with which I am in respectful agreement, there is no manner of doubt that the petitioner is entitled to full pay and allowances for the suspension period and the impugned orders dated 04.04.2014 (Annexure P-3) and dated 21.05.2015 (Annexure P-5) do not stand judicial scrutiny and are liable to be set aside.

7. In the premise, the writ petition is allowed and the impugned orders are set aside. Respondents are directed to give all consequential benefits to the petitioner within a period of two months along with interest at the rate of 8% w.e.f. the date of entitlement till the actual date of disbursement.

5th April, 2019

shabha

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No