

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

CWP No.20386 of 2018 (O&M)
Date of Decision: January 15, 2019

Chandigarh Administration and another ...Petitioners

Versus

Harjit Singh and another ...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Suman Jain, Advocate
for the petitioners.

Mr. K.B.Sharma, Advocate
for respondent No.1.

HARINDER SINGH SIDHU, J.

The Chandigarh Administration has filed this petition impugning the order dated 04.09.2017 of the Central Administrative Tribunal, Chandigarh, whereby, OA No.60/1054/2016 filed by respondent No.1 was allowed.

Respondent No.1 had challenged the order dated 28.07.2016/16.08.2016, whereby he had not been granted the service related benefits for the period when he was out of service due to dismissal on account of his conviction in a criminal case.

Respondent No.1 joined the office of Collector, U.T. Chandigarh on 16.01.1995 as Patwari. FIR No.25/98 dated 02.06.1998 under Section 7,

13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 was registered against him. He was arrested and was placed under deemed suspension vide order 22.06.1998 w.e.f. 03.06.1998. He was convicted by the Special Judge, Chandigarh on 14.07.2001. He filed Crl. Appeal No.835-SB-2001.

Consequent upon his conviction, he was dismissed from service vide order dated 21.12.2001 without holding any departmental enquiry. Vide judgment and order dated 09.09.2014, his criminal appeal was accepted and he was acquitted of the charges. He was reinstated in service vide order dated 22.12.2014 and he submitted joining report on 23.12.2014. Vide order dated 28.07.2016, he was conveyed that he could not be granted any other benefit for the period he remained out of service except for counting that period for purpose of pension. He challenged that order by filing Original Application, which has been allowed and he has been held entitled to grant of all service related benefits for the period when he was out of service

Learned Tribunal relied on the provisions of Rule 7.3 of the Punjab Civil Service Rules Vol. I, Part I, Chapter VII which is as under:

“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 reinstatement 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.

(3) In a case falling under sub-rule (2), the period of absence from duty including the period of suspension preceding dismissal, removal or compulsory retirement, as the case may be, shall be treated as a period spent on duty for all purposes.

(4) In cases other than those covered by sub-rule (2) including cases where the order of dismissal, removal or compulsory retirement from service is set aside by the authority exercising powers of appeal, revision or review

solely on the ground of noncompliance with the requirements of clause (2) of article 311 of the Constitution and no further inquiry is proposed to be held, the Government employee shall, subject to the provisions of sub-rules (6) and (7), be paid such amount (not being the whole) of 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, as the competent authority may determine, after giving notice to the Government employee of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period as may be specified in the notice:

Provided that any payment under this sub-rule to a Government employee other than a Government employee who is governed by the provisions of the payment of Wages Act, 1936 (Act 4 of 1936) shall be restricted to a period of three years immediately preceding the date on which order for re-instatement of such Government employee are passed by the authority exercising the powers of appeal, revision or review, or immediately preceding the date of retirement on superannuation of such Government employee, as the case may be.”

As per the aforesaid Rule, where a Government employee, who has been dismissed, removed, compulsorily retired or suspended is reinstated upon having been fully exonerated then he or she shall be given full pay and allowances to which he or she would have been entitled had he or she had not been dismissed, removed or compulsorily retired.

Respondent No.1 was dismissed from service on account of his

conviction. He has been acquitted in the criminal case and thereafter reinstated.

The Tribunal rightly held that respondent No.1 was entitled to all service related benefits for the period between his dismissal and reinstatement.

There is no infirmity in the order which is as per the service rules.
Dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

January 15, 2019

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No