

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

LPA No.529 of 2017
DATE OF DECISION:25.01.2019

Palvinder Singh

...Appellant

Vs.

Haryana Vidyut Parsaran Nigam Ltd. & others

...Respondents

**CORAM:- HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE LALIT BATRA**

Present: Mr. N. C. Kinra, Advocate
for the appellant.

Mr. Padmakant Dwivedi, Advocate
for the respondents.

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgement of the learned Single Judge dated 27.02.2017. On 26.07.2017 when the appeal came up for hearing, we made it clear that except for interference regarding the grant of subsistence allowance to the appellant, we would decline interference.

The grievance of the appellant is limited to the grant of subsistence allowance as per rule 4(a) extracted herebelow:-

“1) Notwithstanding anything contained in Rule-7.5 read with Rule 7.6 of Punjab C.S.R Vol. I, Part-I (as applicable to Haryana State Employees, the Appointing Authority or any other authority to which it is subordinate of the Punishing authority or any other authority empowered in that behalf by the Board by general order, may place an employee under

suspension:-

a) Where a disciplinary proceeding against him, is contemplated or is pending: or

b) Where a case against him in respect of any criminal offence, is under investigation or inquiry or trial;

Provided that where the order of suspension, is made by an authority lower than the appointing authority or any other authority empowered in that behalf by the Board, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

Provided further that the suspended employee, shall be bound to mark his presence on all working days in the office where his head-quarter, during the period of his suspension; is fixed and in not doing so, would be an act of misconduct.”

The respondents have contended that in terms of the proviso the appellant was required to mark his presence everyday during the suspension period which he did not do rendering himself disentitled to any subsistence allowance.

We are afraid the arguments is totally misplaced as the proviso does not contemplate such a situation. Besides the stand of the respondent is falsified by their own conduct when they themselves have been paying the appellant 50% of the subsistence allowance although it is stated that the appellant never accepted it.

The fact that the respondents itself paid 50% of the subsistence allowance, despite the absence of the appellant shows that their contention before us is based on misconception. There would be no occasion to keep the subsistence allowance in abeyance even if the

employee was at fault unless the respondents took cognizance of it and proceeded to treat it as a misconduct resulting in a specific order to that effect. Concededly, there is no such order and therefore the interpretation placed by the respondents on the said proviso is misplaced and the contention belied by their own conduct. We are of the opinion that the appeal deserves to succeed and while ordering to acceptance, we direct the respondents to release the suspension allowance due to the appellant forthwith. Needless to say the other principles governing the grant of subsistence allowance 50% for the first six months and 75% in case the delinquent is at fault would govern the calculations made for release of the allowance.

(MAHESH GROVER)
JUDGE

(LALIT BATRA)
JUDGE

25.01.2019

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