

CWP-7433-2015

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-7433-2015 (O&M)

Date of Decision: 22nd January, 2020

Dr. Vijay Kumar Arora

...Petitioner

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sanjay Gupta, Advocate,
for the petitioner.

Mr. Charanpreet Singh, Asstt. A.G., Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-5023-CWP-2017

Replication to the written statement filed by the respondents
is taken on record, subject to all just exceptions.

Application stands disposed of.

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Petitioner has approached this Court challenging the order dated 19.12.2013 (Annexure P-4) passed by the Principal Secretary to Government of Punjab, Health and Family Welfare Department, Punjab, along with orders dated 11.03.2014 (Annexure P-6) and dated 30.09.2014 (Annexure P-8).

2. Counsel for the petitioner has asserted that the petitioner was placed under suspension because of the registration of FIR No.2 dated

16.03.2010, at Police Station Vigilance Bureau, Bathinda, against him. He continued under suspension till the date of his reinstatement i.e. 23.05.2011. The trial which ensued resulted in his acquittal vide judgment dated 19.10.2012 (Annexure P-1), wherein the prosecution has failed to prove the charges against him. Petitioner, thereafter, submitted an application dated 26.11.2012 (Annexure P-3) to the Principal Secretary, Health and Family Welfare Department, Punjab, requesting for deciding the period of suspension from 16.03.2010 till 22.05.2011. In pursuance thereto, order dated 19.12.2013 (Annexure P-4) has been passed, whereby, the period of suspension has been ordered to be as regularized by sanctioning the leave of the kind due to him. This order has been challenged by the petitioner on the ground that the petitioner cannot be penalized for the allegations, which have been made against him in the FIR, which was not found to be substantiated and because of the passing of the impugned order, the leave which was to the credit of the petitioner has been utilized. This, counsel contends, is unsustainable in law.

3. Counsel for the petitioner, on instructions from the petitioner, who is present in Court, states that the petitioner has been granted the financial benefits for the period of suspension and it is only with regard to the leave of the kind due, which has been treated for the period of suspension, the petitioner is aggrieved.

4. Counsel for the State has submitted that the Competent

Authority has rightly treated the suspension period of the petitioner as leave of the kind due to him as it is the discretion of the said authority as per the Punjab Civil Services (Punishment and Appeal) Rules, 1970. He contends that the petitioner was involved in a case of corruption and therefore, the Competent Authority, keeping in view the facts and circumstances, has passed the order after taking into consideration the judgment passed by the trial Court, wherein the benefit of doubt has been given to the petitioner.

5. I have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the records of the case.

6. A perusal of the judgment passed by the learned Additional Session Judge, Mansa, exercising the power of Special Judge under the Prevention of Corruption Act, dated 19.10.2012 (Annexure P-1) would not indicate that the benefit of doubt has been given to the petitioner while acquitting him of the charges framed against the petitioner. If that be so, the stand of the respondents that the petitioner has been given the benefit of doubt and therefore, would not be entitled for the period of suspension to be treated as on duty, cannot sustain. No fault can be attributed to the petitioner especially when after appreciating the evidence produced by the prosecution, the trial Court has found that the charges have not been proved and the case of the prosecution has not succeeded.

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7. Keeping in view the above position, the present writ petition is allowed and the impugned order dated 19.12.2013 (Annexure P-4) passed by the Principal Secretary to Government of Punjab, Health and Family Welfare Department, Punjab, along with orders dated 11.03.2014 (Annexure P-6) and dated 30.09.2014 (Annexure P-7) is hereby set aside. The period of suspension of the petitioner be regularized by treating it to be on duty period for all intents and purposes.

(AUGUSTINE GEORGE MASIH)
JUDGE

22nd January, 2020
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No