

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

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Civil Writ Petition No.9147 of 2016

Date of Decision: March 13th, 2020

Sarwan Singh and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. K.P.S. Sandhu, Advocate
for the petitioners.

Ms. Anju Sharma Kaushik, Deputy Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court praying for quashing the order dated 20.11.2015 (Annexure P-7), whereby the petitioners have been not granted the full wages for the period of their suspension.

2. It is the contention of learned counsel for the petitioners that because of registration of FIR No.133 dated 17.07.2009, they were taken in custody. Since they continued to be in custody beyond a period of 48 hours, they were placed under suspension. On the basis of a compromise which has been entered into between the parties, the FIR was quashed by this Court in CRM-M No.39731 of 2013 vide order dated 05.05.2014. On the basis of the quashing of the FIR, order dated 12.06.2014 was passed by the Judicial Magistrate Ist Class, Baba Bakala Sahib, whereby the petitioners were discharged. He asserts that since the petitioners were discharged, there was nothing against the petitioners. He asserts that although the petitioners were reinstated in service as per the order dated 24.09.2014 (Annexure P-1), except for the subsistence allowance, no other pay and allowances have been paid to them for the period of their suspension. This, the counsel

asserts, is unsustainable in the light of the fact that the FIR, on the basis of which the petitioners were suspended on their arrest, cease to exist because of the quashing of the same. He, therefore, contends that the petitioners are entitled to the grant of full pay and allowances for the period of their suspension.

3. On the other hand, learned counsel for the respondents asserts that the petitioners admittedly were arrested in pursuance to the FIR, which was registered against them. As per the requirement of the statute, petitioners were placed under suspension. The order of suspension being in accordance with the requirement of the statute and the rules governing the service, it cannot be said that the suspension of the petitioners was, in any manner, illegal. Assertion has also been made that it is on the basis of the compromise which has been entered into between the parties that the Court has proceeded to quash FIR No.133 dated 17.07.2009 which was registered against the petitioners. She contends that the requirement of the statute has been fulfilled and, therefore, the order as has been passed by the competent authority taking into consideration the facts and circumstances of the case, cannot be faulted with. Prayer has thus been made for dismissal of the writ petition.

4. I have considered the submissions made by the counsel for the petitioners and with his assistance, have gone through the records of the case as also the impugned order but do not find myself in agreement with the assertions of the counsel for the petitioners.

5. The facts as have been recorded are not in dispute. Petitioners admittedly were accused in an FIR which was registered against them.

They being in custody for a period exceeding 48 hours, they were placed under suspension which is on the basis of the operation of the statutory rules governing the service. They continued as such during the pendency of the trial which ensued after the challan was presented in Court. However, on the basis of a compromise which has been entered into between the petitioners and the complainant, the said FIR was quashed by this Court in CRM-M No.39731 of 2013 vide order dated 05.05.2014 (Annexure R-3). It is on the basis of the quashing of the FIR by this Court that the Judicial Magistrate Ist Class, Baba Bakala Sahib, passed an order dated 12.06.2014 (Annexure R-4) discharging the accused.

6. The law regarding the grant of benefit for the period an employee had remained under suspension/dismissal/reinstatement has been duly considered by the Hon'ble Supreme Court in *Ranchhodji Chaturji Thakore Vs. The Superintendent Engineer, Gujarat Electricity Board, Himmatnagar (Gujarat)* & another {1997 (2) R.S.J. 695 (SC)}, *Smt. K. Ponnamma Vs. The State of Kerala & others* {1997 (3) R.S.J. (32)}, *Union of India & others Vs. Jaipal Singh* {2004 (2) R.S.J. (63)}, *State of U.P. & others Vs. Mahindra Nath Tiwari* {2010 (2) SCC 252}, *Corp. Mithilesh Kumar @ Mithilesh Singh Vs. Union of India & others* {2010(13) Scale 98}, *State Bank of India & another Vs. Mohammed Abdul Rahim* {2013 (11) SCC 67}, *Civil Appeal No.3339 of 2019 titled as 'Raj Narain Vs. Union of India & others, decided on 01.04.2019, Darshan Singh Vs. The Punjab State Warehousing Corporation & another* {2017 (4) RSJ 179}, *Harbajan Singh Vs. State of Punjab & others* {2017 LIC 2732}, *Randhir Singh Vs. State of Punjab* {2018 (1) S.C.T. 592},

according to which an employee, if was, facing criminal prosecution arising out of a complaint of private nature, the action of the department cannot be held to be wholly unjustified in denying the claim of the employee for full salary and allowances for the period from the date of his suspension to the date of his reinstatement so as to bring it within the scope of Rules 7.3 and 7.5 of the Punjab Civil Services Rules, Vol.-1 Para 1.

7. In the light of the above, the prayer made by the petitioners in the present writ petition cannot be accepted. Impugned order dated 20.11.2015 (Annexure P-7) being in accordance with law, do not call for any interference.

8. The writ petition stands dismissed.

March 13th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No