

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

CWP-24339-2019

Reserved on :06.12.2022

Pronounced on : 14.12.2022

Mohan Lal

.....Petitioner

Versus

Central Administrative Tribunal & others

.....Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr.Viney Saini, Advocate for the petitioner.

Ms.Puneeta Sethi, Sr.Panel Counsel
for respondent Nos.2 to 4-UOI.

G.S. Sandhawalia, J.

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the order passed by the Central Administrative Tribunal dated 04.05.2018 (Annexure P-1) whereby the period from 06.03.2009 to 29.03.2015 i.e. the period from the date of compulsory retirement to the date of reinstatement was denied for salary on account of the fact that he was out of service due to his conviction in a criminal case. Thus, the order dated 06.01.2016 (Annexure P-12) which was the subject matter of challenge in the Original Application, was upheld. The Tribunal relied upon its earlier order passed wherein reliance had been placed upon the judgment of the Apex Court in **Ranchhodji Chaturji Thakore Vs. Superintendent Engineer, Gujarat Electricity Board, Himmatnagar (Gujarat), 1996 (11) SCC 603** and dismissed the said Original Application.

Counsel for the petitioner has submitted that the Tribunal was in error since there was an acquittal by this Court on 30.10.2014 passed in Crl.Revision No.2365-2008 and therefore, he should have been granted the benefit of full back-wages. Counsel has accordingly submitted that on account of the acquittal, he was entitled for reinstatement and full back-wages.

Counsel for Union of India on the other hand submits that it was on account of the personal litigation and a private dispute of the petitioner and therefore, the Department could not be burdened with the back-wages.

Apparently, the petitioner was in service with the respondents since 1982. On 16.01.1996, FIR No 83 under Sections 323, 324, 326 & 34 IPC was registered against him and Harish Kumar on the ground that he had beaten Gian Singh and caused grievous injuries. He had been sentenced for 3 years under Sections 323 & 326 IPC vide order dated 26.08.2006 and the appeal had been dismissed on 04.11.2008. After issuing show cause notice on 12.02.2009, he was compulsorily retired on 06.03.2009 on the ground of his conduct which had led to his conviction. A compromise was then effected on 10.02.2014 with Gian Singh and resultantly, Crl.Revision No.2365-2008 was allowed by this Court on the basis of the compromise on 30.10.2014. He was then reinstated on 26.03.2015 and then put back on duty to the post of Technician Grade-I from 30.03.2015. He thereafter retired on 03.08.2016. Prior to that, his request had been rejected by the department on 06.01.2016.

The plea taken by the Department is that he had not worked for the period from 06.03.2009 to 29.03.2015 and the FIR was registered due to his personal dispute and the Railway Department had no role in the

FIR and therefore, on the principle of ‘No work no pay’, he had been denied the said benefit. Reliance can be placed upon the judgment of the Apex Court in **Union of India & others Vs. Jaipal Singh 2004 (1) SCC 121** which also relied upon the earlier judgment passed in Ranchhodji Chaturji Thakore (supra). Relevant portion of the judgment reads as under:

“4. On a careful consideration of the matter and the materials on record, including the judgment and orders brought to our notice, we are of the view that it is well accepted that an order rejecting a special leave petition at the threshold without detailed reasons therefore does not constitute any declaration of law by this Court or constitute a binding precedent. Per contra, the decision relied upon for the appellant is one on merits and for reasons specifically recorded therefore and operates as a binding precedent as well. On going through the same, we are in respectful agreement with the view taken in [1996] 11 SCC 603 (supra). If prosecution, which ultimately resulted in acquittal of the person concerned was at the behest or by department itself, perhaps different considerations may arise. On the other hand, if as a citizen the employee or a public servant got involved in a criminal case and it after initial conviction by the trial court, he gets acquittal on appeal subsequently, the department cannot in any manner be found fault with for having kept him out of service, since the law obliges, a person convicted of an offence to be so kept out and not to be retained in service. Consequently, the reasons given in the decision relied upon, for the appellants are not only convincing but are in consonance with reasonableness as well. Though exception taken to that part of the order directing re-instatement cannot be sustained and the respondent has to be re-instated, in service, for the reason that the earlier discharge was on account of those criminal proceedings and conviction only, the appellants are well within their rights to deny back wages to the respondent for the period he was not in service. The appellants cannot be made liable to pay for the period for which they could not avail of the services of the respondent. The High Court, in our view, committed a grave

error, in allowing back wages also, without advertng to all such relevant aspects and considerations. Consequently, the order of the High Court in so far as it directed payment of back wages are liable to be and is hereby set aside.

5. The respondent will be entitled to back wages from the date of acquittal and except for the purpose of denying the respondent actual payment of back wages, that period also will be counted as period of service, without any break. The re-instatement, if not already done, in terms of the order of the High Court will be done within thirty days from today.

The appeal is allowed and disposed of on the above terms.
Appeal allowed.”

Keeping in view the settled principle of law since the FIR was on the basis of a compromise and it was not an honourable acquittal and it was on account of his own doings, he cannot be benefitted for the back-wages for the period he remained out of service due to the order of compulsory retirement.

In such circumstances, no case is made out for interference with the well reasoned order passed by the Tribunal. Accordingly, the present writ petition is dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

14.12.2022
sailesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No