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

211

CWP-18809-2016 (O&M)

Date of decision : 26.08.2022

Balraj

... Petitioner

Versus

Chaudhary Charan Singh, Haryana Agricultural University, Hisar and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Sandeep Kotla, Advocate for the petitioner.

Mr. Aman Pal, Advocate and

Mr. Japsehaj Singh, Advocate for the respondents.

Anupinder Singh Grewal, J. (Oral)

CM-946-CWP-2021

This application is for placing on record Annexures A-1 to A-3.

Heard. For the reasons stated in the application, the same is allowed and Annexures A-1 to A-3 are taken on record, subject to all just exceptions.

Main case

The petitioner is seeking a direction to the respondents to increase the subsistence allowance in terms of Rule 7.2 of the Punjab Civil Services Rules Volume I Part I (applicable to State of Haryana). He has also challenged the order dated 28.05.2016 (Annexure P-9) whereby his claim has been rejected.

Learned counsel for the petitioner submits that the petitioner had been placed under suspension on 11.07.2013 (Annexure P-2). He had been

paid 50% of the pay since 2013 till his retirement on 31.10.2020. It was difficult for the petitioner to sustain himself and his family members without any increase in the subsistence allowance. He further submits that although the petitioner had been suspended but no chargesheet had been issued to him till his retirement. The petitioner was involved in two FIRs. The first FIR pertains to Section 498-A IPC and the petitioner was discharged after he had informed the Court that he had nothing to do with the allegations as he was not related to the parties. The second FIR against the petitioner did not in any manner pertain to his conduct in service.

Learned counsel for the respondents, however, submits that the petitioner was involved in several cases including FIR No.324 dated 22.07.2012, under Sections 498-A, 323, 506 IPC and therefore, the disciplinary proceedings could not be completed. He also submits that the petitioner was convicted in a case registered under Section 138 of the Negotiable Instruments Act, 1881. He also submits that the petitioner was suspended on 11.07.2013 and was paid subsistence allowance subsequently as well in terms of Condition No.8 of the Service Conditions of Chaudhary Charan Singh, Haryana Agricultural University Statues. The Conditions of Service as laid down in the Statute have also been appended as Annexure R-II with the written statement.

Heard.

It is stipulated in Rule 7.2(1)(ii) of the Punjab Civil Services Rules Vol. I Part I that if the period of suspension exceeds six months, then the amount of subsistence allowance be increased by a suitable amount, not exceeding 50% of the subsistence allowance admissible to a Government employee during the period of first six months of suspension. Rule 7.2(1)(ii) of

the Punjab Civil Services Rules Vol. I Part I is reproduced hereunder:-

(ii) In the case of any other Government employee-

(a) A subsistence allowance at an amount equal to the leave salary which the Government employee would have drawn if he had been on leave on half day, and in addition dearness allowance, if admissible, on the basis of such leave salary;

Provided that where the period of suspension exceeds six months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first six months as follows.

(i) the amount of subsistence allowance may be increased by a suitable amount not exceeding 50 per cent of the subsistence allowance admissible during the period of the first six months, if in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing not directly attributable to the Government employee.

(ii) The amount of subsistence allowance may be reduced by a suitable amount, not exceeding 50 per cent of the subsistence allowance admissible during the period of the first six months, if in the opinion of the said authority, the period of suspension has been prolonged due to reasons to be recorded in writing, directly attributable to the Government employee.

(iii) xxxxxxxx”

The respondents, in their written statement, have stated that the subsistence allowance was released to the petitioner in terms of Condition No.8 of the Service Conditions of Chaudhary Charan Singh, Haryana Agricultural University Statues. However, Condition 8 is *pari materia* with the aforementioned 7.2(1)(ii) of the Punjab Civil Services Rules, Volume I Part I. The petitioner was suspended on 11.07.2013 and was paid the same subsistence allowance till his retirement in the year 2020. It is, thus, manifest that in the event of the suspension period exceeding six months, the competent authority has been empowered to increase the subsistence allowance provided the period of

suspension is not prolonged by the employee. In the instant case, there is no material on record which would indicate that the petitioner himself was responsible for the delay in conclusion of the disciplinary proceedings. As a matter of fact, the chargesheet had neither been issued to the petitioner nor disciplinary proceedings had been initiated till his retirement. The respondents have also stated that the petitioner was involved in several cases and therefore, the proceedings could not be finalized. The FIRs were stated to have been registered against the petitioner but there is no allegation of corruption and no FIR has been registered against the petitioner pertaining to his conduct in service. The petitioner remained under suspension from 2013 to 2020. The subsistence allowance of the petitioner ought to have been increased in terms of the aforementioned conditions of the Statue especially when the chargesheet has not been issued to him and the delay in finalizing the disciplinary proceedings is not attributable to the petitioner.

Consequently, the petition is allowed and the impugned order (Annexure P-9) is set aside. Respondent no.1 is directed to consider the claim of the petitioner for enhancing the subsistence allowance in terms of Condition No.8 of the Service Conditions of Chaudhary Charan Singh, Haryana Agricultural University Statues and pass an appropriate order within a period of three months from the date of receipt of certified copy of this order.

(ANUPINDER SINGH GREWAL)
JUDGE

August 26, 2022

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