

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

(216)

CWP-25945-2015

Date of Decision : August 25, 2022

Sumer Chand Goel

.. Petitioner

Versus

UHBVN Ltd. and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

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

Mr. Abhilaksh Grover, Advocate, with
Mr. Sukhsharan Sra, Advocate assisted by
Mr. R.K. Khanna, Chief Engineer in person.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present writ petition, the petitioner, who is retired as Junior Engineer, has approached this Court with a prayer that while working with the respondent-Corporation, an FIR was registered against the petitioner being FIR No.15 dated 16.08.2000 in which FIR, the petitioner was convicted by the trial Court on 03.08.2004 and the petitioner attained the age of superannuation on 31.08.2004. Learned counsel for the petitioner submits that the said conviction was over turned by this Court in CRA-S-1564-SB-2004, decided on 05.12.2013 and the petitioner was acquitted of the allegations.

Further as per the averments made in the petition, after the registration of the FIR, the petitioner was suspended and a charge-sheet was issued to him but the same was subsequently dropped on 19.11.2014 after the petitioner was exonerated from the proceedings pending against him before the Criminal Court. It is submitted that thereafter, the respondents held the petitioner entitled for regularization of the period for which he remained suspended, as per the order dated 19.02.2004 (Annexure P-4).

In the present petition, the petitioner claims the benefit of increment for the period of suspension on the ground that neither in the criminal proceedings nor in the departmental proceedings, the petitioner was held guilty and therefore, the petitioner is entitled for increment for the period he remained under suspension.

The grievance of the petitioner did not found favour with the respondents, which led to the filing of the present petition with a prayer that the petitioner be given the arrears of salary for the period he remained under suspension/dismissal along with increments for the period, the petitioner was kept under suspension.

Notice of motion was issued and the respondents have filed the reply wherein, the respondents have contested the claim of the petitioner. The respondents have conceded the fact that though the suspension period of the petitioner was regularized but the same was done for the purpose of giving continuity in service and not for any other purpose, hence, the petitioner is not entitled for the increment for the period the petitioner remained under suspension/dismissal.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

A Coordinate Bench of this Court while hearing the present petition, passed an order on 25.02.2020 by which the petitioner was not held entitled for the arrears which the petitioner would have got by the grant of increment but the Coordinate Bench of this Court was of the opinion that the petitioner is entitled for the grant of increment notionally for the fixation of his last pay drawn so as to calculate the pensionary benefits for which the petitioner is entitled for and the petitioner is satisfied by the said decision.

The only question which arise before this Court is whether, the petitioner is to be granted the increment for the period he remained under suspension keeping in view the facts and circumstances of this case. It is a conceded position that the petitioner was exonerated of the criminal proceedings as well as the departmental proceedings. It is also a conceded position that the suspension period of the petitioner was to be treated as duty period so as to treat the said period as continuity in service. Once, the respondents themselves have granted the benefits to the petitioner of continuity of service by treating the suspension period as duty period, the petitioner cannot be denied the benefit of increment though notionally, hence, the petitioner is held entitled for the increment for the period the petitioner remained under suspension/dismissal for re-fixation of his pensionary benefits.

No other arguments raised by the learned counsel for the petitioner.

Let the respondents recalculate the last drawn pay of the petitioner by granting him the increment for the period in question and refix his pensionary benefits.

It is made clear that the petitioner will only be entitled for arrears of the pensionary benefits.

Let this order be complied with within a period of two months from the receipt of copy of this order.

The present writ petition is allowed in above terms.

August 25, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes