

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

CWP-23236-2018

Reserved on: 25.08.2022

Pronounced on: 09.09.2022

RANJIT SINGH

.... Petitioner

Versus

STATE OF PUNJAB AND ORS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ashish Grover, Advocate,
for the petitioner.

Mr. Sehajbir Singh Aulakh, AAG, Punjab.

JAISHREE THAKUR.J

1. This is a petition that has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing the order dated 19.05.2011, Annexure P-5, passed by respondent No.3-Deputy Inspector General of Police, Bathinda whereby on reinstatement in service, monetary benefits have been declined by treating the intervening period as “*Dies Non*”, and order dated 11.04.2018, Annexure P-12, passed by respondent No.2-Inspector General of Police, Bathinda Zone, Bathinda, whereby his appeal against order Annexure P-5, was dismissed. He has also prayed for a mandamus to release all the monetary benefits as per Rule 7.3(2) of the Punjab Civil Services Rules, as has been allowed to the similarly situated person.

2. In brief, the facts, as pleaded, are that the petitioner was appointed as a Constable and was working in the respondent department at Bathinda. During the course of employment, he was arrayed as an accused in FIR No.56, dated 31.07.1993, registered under Sections 307, 324, 323, 34 IPC at Police Station Raman, District Bathinda. He was convicted in the said case by the Additional Sessions Judge, Bathinda, vide judgment dated 18.05.1999 and was awarded sentence of one year and fine of Rs.250/-. On account of conviction, the petitioner was dismissed from service by order dated 21.09.1999, Annexure P-1. He preferred appeal against the conviction order and the same was accepted by the High Court vide judgment dated 06.03.2009, Annexure P-2. The petitioner along with co-accused was acquitted from all charges. On acquittal, the petitioner preferred an appeal before respondent No.3 praying reinstatement in service, which matter was referred to respondent No.4 for reviewing the dismissal order. Respondent No.4, vide order dated 01.08.2009, Annexure P-3, reinstated the petitioner back in service w.e.f. 30.07.2009 and also ordered initiation of departmental inquiry. The Enquiry Officer found the petitioner innocent, on the basis of which, respondent No.4 consigned the departmental inquiry vide order dated 30.08.2010, Annexure P-4. After dropping the departmental proceedings, the petitioner approached respondent No.3 for grant of monetary benefits for the period of his dismissal. However, his claim was declined by respondent No.3 vide order dated 19.05.2011, Annexure P-5, and it was ordered that his period be treated as *Dies Non*. He challenged that order by way of a civil suit, which was allowed vide judgment dated 12.08.2014, Annexure P-7, wherein it was ordered that his period w.e.f. 21.09.1999 to 01.08.2009 be

treated as duty period for all intents and purposes and made him entitled for arrears of pay and allowances and other perks. Against that very order, the State went in appeal, which was allowed vide order dated 02.03.2015, Annexure P-8, holding that the petitioner had not availed the remedy of appeal against the order dated 19.05.2011 and, therefore, his suit was premature. The petitioner approached respondent No.2-Inspector General of Police, by filing an appeal against the order dated 19.05.2011, however, his appeal was dismissed vide order dated 11.04.2018, Annexure P-12. Hence, the present petition.

3. Learned counsel appearing on behalf of the petitioner assails both the said orders by contending that Rule 7.3 of the Punjab Civil Services Rules clearly stipulates that the petitioner, on being acquitted, would be entitled to full salary and allowances for the period from the order of dismissal till the date of reinstatement. In support of his arguments, counsel would rely upon a judgment rendered in ***Sucha Singh Versus State of Punjab and others, 2014(1) SCT 183***. He would also rely upon an order dated 16.02.2018, Annexure P-11, passed in the case of Constable Bahadur Singh who had also been nominated as an accused under the aforesaid FIR No.56, but, on reinstatement, he had been allowed full salary and allowances. It is submitted that the said order has been passed as the claim of said Bahadur Singh had been upheld upto level of High Court in RSA No.2784 of 2015, decided on 17.11.2017.

4. Per contra, learned State counsel would submit that the petitioner having been involved in a criminal case, was dismissed from

service and, therefore, having not worked for the period that he remained out of service, he would not be entitled to any pay and allowances for the said period. He would rely upon judgments rendered in *State of U.P. Versus Ved Pal, 1997(1) SCJ 37 SC* and *Union of India Versus Bihari Lal Sidhana, 1997 SCJ 119 SC* wherein it has been held that an employee involved in a criminal case, if acquitted, is not entitled to get arrears of pay etc.

5. I have heard learned counsel for the parties and with their assistance, have gone through the pleadings of the case and the case law, as cited.

6. It is an admitted fact that the petitioner herein, namely, Constable Ranjit Singh on account of registration of an FIR was dismissed from service. He stood convicted by the trial Court, however, the said order was set aside by the High Court. The petitioner was reinstated in service and now seeks to claim the benefits of salary etc. for the period that he was dismissed. FIR was registered on account of a land dispute. Manpreet Singh, the complainant in the FIR, had purchased some land from accused Sukhdev Singh. The complainant felt that the land had been sold at a higher rate, on account of which, there was a grudge between the parties. Bahadur Singh, a Constable, and Ranjit Singh, the present petitioner, were also involved in the FIR. It was noted that the petitioner, Ranjit Singh, had inflicted injuries on the back and shoulder of Lakhvir Singh, whereas the case of Bahadur Singh was that he was not present on the spot. The trial Court convicted the petitioner and Bahadur Singh, but the High Court holding that there was a free fight between the parties and that as the complainant party had been

acquitted in the cross case, the judgment as rendered by the trial Court was reversed. In the departmental proceedings, the petitioner herein was dismissed from service on account of his conviction by invoking the provisions of Rule 16.2(2) of the Punjab Police Rules, by an order dated 21.09.1999. He was acquitted by the judgment rendered in the criminal appeal on 06.03.2009. The order of dismissal was challenged by the petitioner seeking reinstatement, which order was passed and departmental enquiry was initiated. The ultimate conclusion in the enquiry was to file the case. The claim to get all the benefits from the date of dismissal and his period of suspension to be considered as duty, stands rejected.

7. Rule 7.3 (2) of the Punjab Civil Services Rules is reproduced hereunder for ready reference:-

“7.3(2) Where the authority competent to order reinstatement is of opinion that the Government employee, who had been dismissed, removed or compulsorily retired, has been fully exonerated, the Government employee shall, subject to the provisions of sub-rule (6), be paid his full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended, prior to such dismissal, removal or compulsory retirement, as the case may be:

Provided that where such authority is of opinion that the termination of the proceedings instituted against the Government employee had been delayed due to reasons directly attributable to the Government employee it may, after giving him an opportunity to make representation and after considering the representation, if any, submitted by him, direct,

for reasons to be recorded in writing, that the Government employee shall, subject to the provisions of sub-rule (7), be paid for the period of such delay only such amount (not being the whole) of pay and allowances, as it may determine.”

8. A bare reading of the provision would clearly reflect that a government employee, who had been dismissed, removed, compulsorily retired or suspended, if reinstated upon having been fully exonerated, would be entitled to full salary and allowances for the period i.e. the date of dismissal till the date of reinstatement. This is the law that has been settled in ***Sucha Singh's case (supra)*** where the petitioner therein had been nominated as an accused in an FIR registered under the Prevention of Corruption Act and on exoneration had sought reinstatement in the department as during the pendency of the proceedings before the criminal court, he stood dismissed from service. The petitioner therein had been reinstated but the period of absence from duty on dismissal till the date of reinstatement was treated as 'no work, no pay'. As a sequel to such order, the writ petition was filed and subsequently allowed. However, in the instant case, there is a slight difference in the facts. In ***Sucha Singh's case***, the proceedings had been initiated by the department under the Prevention of Corruption Act, whereas the petitioner herein had been involved in a private dispute pertaining to land and therein on his conviction, was dismissed from service by invoking Rule 16.2(2) of the Punjab Police Rules. The order of conviction was set aside in an appeal that had been filed and allowed by the High Court only on the ground that the complainant party had been acquitted and it was a free fight. Therefore, in the opinion of the Court, the matter in ***Sucha Singh's case (supra)*** would not be applicable in the instant case, whereas in the judgment

rendered in ***Union of India and others Versus Jaipal Singh, 2000(1) SCT 108***, it has been held that an employee who has been convicted for an offence committed by him in his private life and thereafter stands acquitted in appeal, he would be entitled to reinstatement but cannot be granted backwages because the employer cannot be blamed and made liable to pay him for the period that he remained out of service. In the case of ***Jaipal Singh's case (supra)***, he had been involved in a criminal case and he was charge-sheeted for offence under Section 302 read with Section 34 IPC and he was convicted by the Additional Sessions Judge, Rewari, however, in appeal, the Division Bench of the High Court returned a verdict of acquittal. He sought reinstatement which was allowed and he thereafter filed a writ petition before the High Court, which writ petition was allowed and he was granted all the service benefits. This order was challenged in appeal before the Supreme Court. The Supreme Court placing reliance on a decision rendered in ***Ranchhodji Chaturji Thakore Versus Superintendent Engineer, Gujarat Electricity Board, Himmatnagar (Gujarat) and another, 1996(11) SCC 603*** set aside the order of the High Court limited to the extent of denial of backwages. It was held that the State cannot be made liable to pay for the period for which they could not avail the service of the respondent. Similarly, in ***Reserve Bank of India Versus Bhopal Singh, 1994 (1) SCT 505***, the Supreme Court held that in case an employee is absent for reasons of his own involvement and does not discharge duties, the bank cannot be saddled with the liability to pay his salary and allowances for that period.

9. The plea of the petitioner that he would be entitled to parity with Bahadur Singh would pale into significance in the light of the observations

and the law settled in *Jaipal Singh's case (supra)*.

10. The action of the respondents in dismissing the petitioner on his conviction would be in consonance with Rule 16.2 of the Punjab Police Rules. The appeal that had been filed and allowed vide judgment dated 06.03.2009 was taken into account while reinstating the petitioner.

11. Consequently, keeping in view the judgment rendered in *Jaipal Singh's case (supra)* and other cases as referred to above, the petitioner herein who was involved in a criminal case of a private nature relating to some land dispute, though acquitted by the High Court, is not entitled to any wages for the period for which his employer could not avail his services. The writ petition is, accordingly, dismissed.

(JAISHREE THAKUR)
JUDGE

09.09.2022

sanjeev

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No