

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

**CWP-30041-2017
Date of Decision: 20.05.2022**

Harjant Singh

..... Petitioner

Versus

Punjab State Civil Supplies Corporation Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Parveen Kumar Garg, Advocate,
for the petitioner.

Ms. Usha Rani, Advocate, for
Mr. Sumit Puri, Advocate,
for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, challenge is to the impugned order dated 14.12.2011 (Annexure P-3), vide which order, the respondents have declined the payment of full salary to the petitioner for his suspension period, despite the fact that he was ultimately found innocent by the respondents, in respect of the allegations alleged against him, on the basis of which allegations, the petitioner was suspended from service by the respondents.

Learned counsel for the petitioner submits that the petitioner was suspended on 25.04.2000 by the respondents in anticipation of the disciplinary proceedings to be initiated against him and he was issued

charge-sheet on 01.03.2001, alleging certain allegations against him. Learned counsel further submits that the petitioner remained suspended from service for a period of four years approximately, and then he was reinstated in service on 27.02.2004.

Learned counsel for the petitioner submits that after completion of the disciplinary proceedings, a punishment was imposed upon the petitioner on 15.03.2007, wherein certain recovery of the losses was ordered to be effected from the petitioner. The said order of punishment dated 15.03.2007 was challenged by the petitioner by filing a statutory appeal before the Appellate authority.

Learned counsel for the petitioner further submits that while the said appeal of the petitioner was pending consideration, the respondents passed an order dated 07.03.2011 (Annexure P-2) directing that the petitioner will not be entitled for the monetary benefits during the suspension period, but the said suspension period will be treated as a duty period for the purpose of seniority, etc. The said order dated 07.03.2011 (Annexure P-2) is under challenge in the present petition. Learned counsel further submits that during pendency of the said appeal filed by the petitioner, the respondents also filed an arbitration case against the petitioner for recovery of the amount, in pursuance of order dated 15.03.2007.

Learned counsel for the petitioner submits that the appeal filed by the petitioner was allowed by the Appellate authority vide order dated 14.12.2011 (Annexure P-3) and the order dated 15.03.2007, passed by the Managing Director, imposing punishment upon the petitioner was set aside.

Learned counsel for the petitioner submits that after

exoneration of the petitioner from the charges, he demanded the full salary for his suspension period, which has been declined by the respondents vide impugned order dated 07.03.2011 (Annexure P-2).

After notice of motion, the respondents have filed the reply, wherein they have stated that once a punishment order was passed against the petitioner and the allegations were proved against him, the order dated 07.03.2011 (Annexure P-2) was perfectly valid and legal.

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

It is a matter of fact that the petitioner was ultimately found innocent by the respondents, in respect of the allegations alleged against him. Though order of suspension is not a punishment, but period spent on suspension cannot be treated as duty period, unless and until an employee is exonerated in the disciplinary proceedings initiated against him/her. In the present case, the disciplinary proceedings have ultimately culminated in favour of the petitioner as he has been found innocent and discharged by the Appellate authority vide order dated 14.12.2011 (Annexure P-3). That being so, the petitioner cannot be caused prejudice by denying him the salary for the period, when he was forced on suspension by the respondents themselves. Once the respondents themselves have failed to prove the charges levelled against the petitioner and he remains innocent of the said charges, the denial of benefit of full salary for the suspension period will be putting premium upon the actions of the respondents, which is not permitted.

Once the petitioner has been exonerated of the charges levelled against him by the respondents and his period of suspension has been

treated as a duty period as the petitioner was restrained from working by the respondents themselves in anticipation of the disciplinary proceedings initiated against him, in which proceedings he was found innocent. In the facts and circumstances of this case, the petitioner is held entitled for the grant of full salary for the suspension period.

The present petition is accordingly allowed. Order dated 14.12.2011 (Annexure P-3) is set aside. The respondents are directed to pay full salary to the petitioner for the suspension period within a period of two months from the date of receipt of the copy of this order.

20.05.2022*Apurva***(HARSIMRAN SINGH SETHI)
JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : No