

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

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**CM-1336-LPA-2022 in/and
LPA-2073-2019(O&M)
Date of Decision: 01.09.2022**

Dakshin Haryana Bijli Vitran Nigam (DHBVN) and others

..... Appellants

Versus

Suresh Kumar

..... Respondent

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr.Puneet Jindal, Sr. Advocate with
Mr. Amandeep Singh Meho, Advocate
for the appellants.

Mr.Vinay Kumar Arya, Advocate for
Mr. Sandeep Goyat, Advocate
for the respondent.

G.S.SANDHAWALIA, J. (Oral)
CM-1336-LPA-2022

Application for placing on record the true typed copy of judgment dated 17.03.2015 passed by the learned ASJ, Hisar as Annexure P-5 is allowed, as prayed for.

CM stands disposed of.

LPA-2073-2019

The present Letters Patent Appeal arises out of the order of learned Single Judge passed in CWP No.8871 of 2016 “Suresh Kumar vs. Dakshin Haryana Bijli Vitran Nigam Limited and others” on 17.01.2019. The learned Single Judge allowed the writ petition on the ground that the suspension period of the writ petitioner is to be treated as leave of kind due pertaining from 28.04.2014 to 25.03.2015 on the ground that he had been acquitted by the Criminal Court. Reliance was placed upon an order passed in the case of one Rakesh Kumar Jain, LDC (Annexure P-4) who was facing trial under Sections 498-A and 406 of IPC and had been granted the said benefits.

On an earlier occasion, we had asked the appellant to place the judgment of the trial Court on record in FIR No. No.247 dated 22.04.2014 registered under Sections 304-B, 498-A, 302 IPC, at Police Station Civil Lines, Hisar, to find out whether the respondent remained in custody and if so, for how much period. CM-1336-LPA-2022 has been filed, now to place on record the same as Annexure P-5, which is allowed.

On the perusal of the said judgment, it would go on to show that the appellant's employee was in custody at the time of the acquittal on 17.03.2015. Admittedly, he was arrested on 29.04.2014 and thus, he was placed under suspension on the said date and was acquitted only on 17.03.2015. He has been reinstated on 25.03.2015 and therefore, the relief which was claimed of treating the said period when he was in custody as period spent on duty, cannot be justified as such. This aspect apparently was not brought to the notice of the learned Single Judge and neither the Nigam in its reply had specified this aspect that the person has remained in custody.

In such circumstances, once the employee was in judicial custody for the period, the prayer for the said relief was not justified and therefore he cannot be granted the benefit to treat the suspension period as the duty period for all intents and purposes and the same was rightly treated as leave of kind due.

The appeal is accordingly allowed to the extent that the leave of kind due will only be treated from 18.03.2015 to 25.03.2015.

(G.S.SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

01.09.2022
anju

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