

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

Date of Reserve:10.04.2023

Date of Decision: 07.07.2023

CWP No.10429 of 2018 (O&M)

Ravinder Singh

.....Petitioner

Vs

State of Haryana and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Suresh Kumar Kaushik, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, D.A.G., Haryana.

RAJ MOHAN SINGH, J.

[1]. The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari for quashing the order dated 30.01.2018 passed by the respondent No.1 whereby the claim of the petitioner has been rejected on the ground of 'No Work No Pay'.

[2]. The petitioner was working as Head Constable in the Haryana Police. The criminal case was registered against him in which he was convicted by the trial Court for life. As a result of the aforesaid conviction, the petitioner was dismissed from the

service. Thereafter the petitioner was acquitted by the High Court vide judgment of acquittal dated 15.12.2011. The petitioner was reinstated on 11.01.2013. The consequential benefits for the intervening period from 30.11.2007 to 13.01.2013 as leave without pay *qua* the principle of 'No Work No Pay' were denied.

[3]. After the acquittal of the petitioner, he filed representation regarding reinstatement in service which was rejected by the Commandant, 2nd Bn. HAP, Madhuban vide order dated 05.10.2012. The appeal was preferred by the petitioner on 17.10.2012 which was disposed of by the Inspector General, Haryana Armed Police, Madhuban vide order dated 11.01.2013 on the ground that the petitioner was acquitted in the criminal case. The State Government has not preferred any SLP against the judgment of acquittal dated 15.12.2011, therefore, the claim of the petitioner cannot be rejected. The appeal was accepted. Order dated 05.10.2012 was set aside. The petitioner was reinstated in service and his intervening period from 30.11.2007 to the date of re-joining was ordered to be treated as leave without pay on the principle of 'No Work No Pay'.

[4]. In compliance of the aforesaid order dated 11.01.2013,

the petitioner was reinstated vide order dated 14.01.2013 passed by the 2nd Bn. HAP, Madhuban and the intervening period from 30.11.2007 to the date of re-joining of duty was treated to be leave without pay on the principle of 'No Work No Pay'.

[5]. Thereafter the petitioner filed CWP No.16399 of 2013 against the orders dated 11.01.2013 and 14.01.2013 passed by the Inspector General, HAP, Madhuban and 2nd Bn. HAP, Madhuban respectively. In the said writ petition, the petitioner sought quashing of orders dated 11.01.2013 and 14.01.2013 to the extent that the petitioner has been denied pay and allowances from 30.11.2007 to 13.01.2013 and the said period has been treated as leave without pay on the principle of 'No Work No Pay'. The petitioner also prayed for the issuance of directions to the respondents to grant the pay and allowances from the said date and treat the said period as duty period and count the same for all intents and purposes including seniority, grant of ACP and annual increments with all consequential benefits. In the written statement, the respondent-Department took a simpliciter plea that the benefit cannot be granted in respect of pay and allowances because the petitioner did not actually work and as regards promotion, it has been mentioned that after reinstatement of the petitioner, he was sent to the

intermediate course and thereafter he was promoted. This Court remanded this case to the respondent No.1 to reconsider the case by way of passing a speaking order. The relevant observation reads as under:-

“In my opinion, this cannot be the end of the matter. The petitioner did not work because he was involved in a criminal case which ultimately turned out to be false since he was acquitted by this Court and that judgment became final and it was because of this he could not get to the intermediate course as per his turn when his juniors were sent.”

[6]. The grievance of the petitioner is that after setting aside of his conviction by the High Court, he was reinstated but even on demand made by him he has neither been paid allowances nor given consequential benefits of seniority/promotion for the period he remained out of service for no fault of his own. Learned counsel for the petitioner placed reliance upon **Shashi Kumar Vs. Uttri Haryana Bijli Vitran Nigam and another, 2005(1) S.C.T. 576; Kanwal Singh Vs. State of Haryana and another 2010(3) S.C.T. 464; Union Territory, Chandigarh and others Vs. Sunita Bakshi and others CWP No.28902-CAT of 2018 decided on 09.01.2019; Chander Singh Dalal Vs. Haryana Dairy Development Co-operative Federation Ltd. Chandigarh through its Managing Director and others**

2008(3) S.C.T. 33; Smt. Poonam Rani Vs. Uttar Haryana Bijli Vitran Nigam Ltd. 2008(1) S.C.T. 819; Ishwar Singh Vs. State of Haryana and others 2012(2) S.C.T. 209 and Ajmer Lal Pundeer Vs. Oriental Insurance Co. Ltd. New Delhi and others 2012(3) S.C.T. 147.

[7]. As per stand taken by the respondents, the period during which the petitioner remained out of service cannot be regularized in view of judgment dated 01.04.2013 passed in **LPA No.930 of 2012** titled '**Satpal Dhawan vs. State Bank of Patiala & others**'; and **Reserve Bank of India vs. Bhopal Singh, 1994(1) SCC 541; Kapoor Singh vs. State of Punjab, 2021(5) SLR 643; Raj Narain vs. Union of India & Ors., 2019(2) SCT 582; Union of India vs. Jaipal Singh, 2004(1) SCC 121; Ranchhodji Chaturji Thakore vs. Superintendent Engineer, Gujarat Electricity Board, 1996(11) SCC 603 and Baldev Singh vs. Union of India and others, 2005(10) JT 213.**

The petitioner remained absent on account of his own involvement in a criminal case for which the respondent was not responsible in any way. The respondent was not responsible for keeping the petitioner away from the duties and, therefore, the Department cannot be saddled with the liability to pay salary and allowances for the period during which the petitioner

remained away from the service.

[8]. Evidently, the petitioner was convicted for an offence under Section 302 IPC and later on he was acquitted by the High Court. The prosecution was not launched at the behest of the Department. In some cases, the Department would become liable for backwages in the event of finding that initiation of criminal prosecution was *mala fide* at the instance of the Department. The subsequent acquittal of the petitioner would not entitle him to seek backwages as the prosecution was not launched by the respondent-Department.

[9]. In view of above, this Court does not find any justification to grant indulgence in this case. This writ petition is accordingly dismissed. All other civil misc. applications, if pending are accordingly disposed of.

July 07, 2023

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No