

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

220

**CWP-12035-2018 (O&M)
Date of decision: 18.01.2023**

Tejbir Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. R. K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate for the petitioner.

Mr. Rajesh Gaur, Addl. AG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition is for issuance of a writ in the nature of mandamus directing the respondents to release the salary of the suspension period i.e. from 06.08.2015 to 07.12.2015 and to grant the salary of the dismissal period from 07.12.2015 to 03.10.2017 to the petitioner.

Written statement filed on behalf of the respondent-State is already on record.

Learned senior counsel for the petitioner submits that the petitioner was suspended vide order dated 06.08.2015 and dismissed from the service vide order dated 07.12.2015; that the statutory appeal preferred by the petitioner was dismissed on 27.09.2016 and that the order of punishment was set aside by the 2nd Appellate Authority with a direction to conduct a fresh enquiry, which is still pending.

It is further submitted that with the passing of the order by the 2nd Appellate Authority, the status quo ante i.e. suspension of the petitioner

from service, would come into play, during the period of the fresh inquiry and therefore, the petitioner cannot be denied the subsistence allowance, in terms of Rule 7.3 of the Punjab Civil Services Rules (as applicable to Haryana).

Learned senior counsel further submits that the petitioner has also filed representations dated 02.11.2017, 27.11.2017, 23.12.2017, 01.02.2018 and 20.02.2018 to release the salary of suspension/dismissal period.

In support of his case, learned senior counsel for the petitioner relies upon the judgment passed by Full Bench of this Court in ‘Radha Ram Vs. Municipal Committee, Barnala and another’ 1983 PLR 21.

Learned State counsel, while opposing the prayer of the learned senior counsel for the petitioner, submits that the enquiry is still pending and beside registration of an FIR, a complaint against the petitioner is pending with Lokayukta Haryana.

I have heard the learned counsel for the parties and have also gone through the case file.

The submissions of the senior counsel for the petitioner that once the punishment order was set aside and fresh inquiry was initiated, the petitioner is entitled to the subsistence allowance.

In view the above, the resent writ petition is disposed of with a direction to the respondents to release the subsistence allowance to the petitioner, in view of Rule 7.3 of the Punjab Civil Services Rules (as applicable to Haryana) within a period of three months from the date of receipt of certified copy of this order, in accordance with law.

18.01.2023

Mangal Singh

**(HARNARESH SINGH GILL)
JUDGE**

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No