

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1906-2016

Date of decision : 10.08.2023

Warjinder Singh

...Petitioner

Vs.

Punjab State Power Corporation Ltd.
and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Amit Gupta, Advocate for
Mr. J.S.Jaidka, Advocate for the petitioner.

Mr. Aditya Jain, Advocate,
Mr. Rahul Vohra, Advocate and
Mr. Shivjot S.Modgil, Advocate
for respondent Nos.1 and 2.

DEEPAK MANCHANDA, J.(Oral)

Petitioner-Warjinder Singh has filed this petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of the order dated 10.11.2015 (Annexure P-2), whereby his suspension period has been wrongly treated as non-duty period and further for issuance of a direction that the suspension period of the petitioner be regularized.

Learned counsel for the petitioner contends that during the service of the petitioner, an FIR bearing No.12 dated 12.12.2012 was registered against him under Sections 420, 467, 468, 471 and 120-B IPC and Sections 7, 13 (1) of Prevention of Corruption Act, at Police Station Vigilance Bureau, Ludhiana, therefore, he was put under suspension from 12.12.2012 to 28.02.2013.

However, vide judgment dated 28.05.2015 (Annexure P-1) passed by Judge, Special Court, Ludhiana, petitioner was acquitted of the charges framed against him.

Learned counsel further submits that vide order dated 10.11.2015 (Annexure P-2), it was ordered that as the petitioner was acquitted on the basis of 'benefit of doubt', therefore, his suspension period i.e. w.e.f.12.12.2012 to 28.02.2013 be treated as non-duty period. According to him, this would amount to full exoneration under Rule 7.3 of the Punjab Civil Services Rules, therefore, he prays for quashing of the impugned order, whereby petitioner was denied the benefit of salary and other allowances for the period of his suspension as well as other consequential benefits.

In support of his contention, learned counsel for the petitioner has placed reliance upon the judgment rendered by this Court in "***Sujinder Singh Vs. Punjab State Power Corporation Ltd. and others***", 2018 (4) S.C.T.462 and another judgment passed in CWP-28550-2017 decided on 07.10.2021, titled as "***Shakuntla Devi Vs. State of Haryana and others***".

On the other hand, learned counsel representing respondents opposed the prayer of the learned counsel for the petitioner and submits that mere fact that petitioner was acquitted of the charges does not mean that the period of suspension is supposed to be regularized by treating the concerned official on duty. He prays for dismissal of the petition.

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

Reference may first be had to a Division Bench judgment of this Court rendered in "***Shashi Kumar Vs. Uttri Haryana Bijli Vitran Nigam Ltd.***

And another, 2005 (1) SCT 576, a relevant whereof is extracted herein below:-

“7. In any event, the terms “honourable acquittal” or “fully exonerated” are unknown in the Code of Criminal Procedure or in Criminal Jurisprudence. These terms came up for consideration before a Division Bench of the Madras High Court in the case of Union of India Vs. Jayaram, AIR 1960 Madras 325. Rajammannar, C.J. Delivering the judgment of the Division Bench observed as under:

There is no conception like “honourable acquittal” in Criminal Procedure Code. The onus of establishing the guilt of accused is on the prosecution, and if it fails to establish the guilt beyond reasonable doubt, the accused is entitled to be acquitted.

Clause (b) of Article 193 of the Civil Service Regulations which says that when a Government servant who was under suspension is honourably acquitted, he may be given the full salary to which he would have been entitled if he had not been suspended applies only to the case of departmental Inquiry.

Where the servant was suspended because there was a criminal prosecution against him, and he was acquitted therein, and reinstated he is entitled under the general law, to the full pay during the period of his suspension. To such a case Article 193 (b) does not apply.”

Further, in CWP-7794-2018, titled as **“Ex. HC (GD) Surender Singh versus Union of India and others”**, decided on 16.10.2019, it has been held as under:-

“15. Every acquittal is honourable acquittal. There is

nothing in the Criminal Procedure Code nor is there any rule of criminal jurisprudence for treating the effects and consequences of an honourable acquittal from an acquittal on failure of the prosecution to prove the case beyond reasonable doubt.”

In view of the above discussion, present petition is allowed and the order dated 10.11.2015 (Annexure P-2) is hereby quashed.

Consequently, it is directed that the suspension period of the petitioner from 12.12.2012 to 28.02.2013 be treated as period on duty and the petitioner is entitled to full pay and allowances for the said period along with all consequential benefits. The same be worked out and released to the petitioner within a period of three months from the date of receipt of a certified copy of this order.

Since the main case has been decided, the Civil Misc. Application, if any, also stands disposed of.

(DEEPAK MANCHANDA)
JUDGE

10.08.2023
vanita

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