

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-20992-2020

Date of decision: 23.11.2023

Kuldeep Singh Punia

... Petitioner

VS.

MD, UHBVNL

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. S.P. Arora, Advocate and
Mr. Himanshu Arora, Advocate for the petitioner.

Mr. Padamkant Dwivedi, Advocate for the respondent.

Sandeep Moudgil, J.

(1). The petitioner in the present writ petition filed under Article 226 of the Constitution seeks a writ of certiorari for quashing the order dated 04.04.2018 (Annexure P6) passed by the respondent whereby warning has been issued to the petitioner and his suspension period has been ordered to be treated as leave of the kind due. He further seeks quashing of the order dated 07.08.2018 (Annexure P8) whereby his request for regularization of suspension period from 31.08.2015 to 16.04.2018 has been declined by the Chairman-cum-MD, UHBVNL. A further direction is sought to the respondents to treat the period of suspension from 31.08.2015 to 16.04.2018 as period spent on duty.

(2). Learned counsel for the petitioner contends that on the complaint filed by Joginder, FIR No.59 dated 31.08.2015 under Sections 7/13 of the PC Act was registered against the petitioner, however, the petitioner was honourable acquitted by the trial court vide judgment dated 21.12.2017 (Annexure P1) on the ground that the prosecution has totally

failed to prove the demand and acceptance of the bribe by the petitioner coupled with the fact that in the enquiry report dated 19.01.2018 also, it was concluded that the petitioner was not responsible as the charges leveled against him were found to be not sustainable. However, the respondent vide impugned orders (Annexure P6 & P8), the respondent issued warning to the petitioner and his suspension period has been ordered to be treated as leave of the kind due which action is totally discriminatory and unjust. Reliance has been placed on Shashi Kumar vs. UHBVNL 2005 (1) SCT 576 wherein a Coordinate Bench of this court held that the employee will be entitled to be reinstated with all consequential benefits on acquittal by the Court, whether honourably or giving benefit of doubt.

(3). Mr. Padamkant Dwivedi, Advocate has filed written statement on behalf of the respondent wherein it has been averred that though on the basis of the judgment dated 21.12.2017 passed by the trial court, the petitioner was found non-responsible for the charges leveled against him, however, the punishing authority, on consideration, had found him responsible for administrative lapses and decided to issue him warning and the suspension period was treated as leave of kind due.

(4). He places reliance on the judgment passed by a Division bench of this Court in **LPA No.930 of 2012 “Satpal Dhawan vs. State Bank of Patiala & Ors.** wherein it has been held that acquittal from the criminal trial, an employee will not be entitled for arrears of salary etc. It is argued that the present writ petition in itself is not maintainable as the petitioner has never filed any statutory appeal against the punishment order dated 04.04.2018

before the Managing Director-UHBVNL as the impugned order has been passed by the Director (Technical).

(5). Heard learned counsel for the parties and gone through the record.

(6). The services of the petitioner is governed by Uttar Haryana Bijli Vitran Nigam employees (Punishment and Appeal) Regulations 2018 and the relevant rules reads as under:-

9. Right of appeal-

Every person to whom these rules apply, shall be entitled to appeal, as hereinafter provided, to such superior authority as may be prescribed by Nigam in the rules regulating his conditions of services against an order, not being an order of Nigam-

(a) imposing upon him any of the penalties specified in rule 4.

(b) discharging him in accordance with the term of his contract, if he has been engaged on a contract for a definite, or for an indefinite periods and has rendered, under either form of contract, continuous service for a period exceeding five years at the time when his services are terminated;

(c) reducing or withholding the amount of pension admissible under the rules governing pension;

(d) termination of service;

(e) an order which denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement.

(f) premature retirement from service in public interest before attaining the age of superannuation.

(7). Faced with this, learned counsel for the petitioner prays for withdrawal of the writ petition to avail the alternative remedy available under the aforesaid Regulations.

(8). Ordered accordingly.

(9). It is made clear that since the writ petition was pending before this Court since 14.11.2020, the limitation period would not be an impediment for appellate authority for consideration of the claim of petitioner, in accordance with law. In case any such appeal is preferred by the petitioner, the same shall be sympathetically considered and decided as soon as possible, preferably within 3 months from the date of its filing.

23.11.2023
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No