

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

CWP No.9612 of 2016

Date of decision : 11.01.2023

Mohinder Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Surmukh Singh, Advocate
for the petitioner.

Mr. Inderpreet S. Kang, Asstt. Advocate General, Punjab
for respondents No.1-State.

Mr. Sanjeev Sharma, Advocate
for respondents No.2 to 4.

PANKAJ JAIN, J. (ORAL)

Present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of writ in the nature of certiorari for setting aside the order dated 10th of September, 2015 (Annexure P-14) and order dated 7th of December, 2010 placed on record as Annexure P-7. Further petitioner claims his entitlement for the pay & allowances and all consequential benefits for the period for which he remained out of services on the ground of conviction.

2. Petitioner was working as Beldar. He was booked in FIR No.128 dated 11th of July, 1996 registered for the offence punishable under Section 304-B IPC at Police Station Civil Lines, Patiala. He was placed

under suspension vide order dated 16th of August, 1996. The criminal proceedings led to order of conviction dated 21st of August, 1999 against the petitioner. Consequent thereupon the services of the petitioner were ordered to be dismissed vide order dated 29th of November, 1999.

3. Judgment of conviction was taken in appeal by the petitioner and he was ordered to be acquitted vide judgment dated 4th of February, 2010. Consequent thereto the order of suspension and the dismissal was withdrawn by the Competent Authority vide order dated 7th of December, 2010 which has been placed on record as Annexure P-7. The Petitioner preferred CWP No.17910 of 2011 claiming that he be granted all monetary benefits and the retiral benefits after having been ordered to be reinstated w.e.f. 14th of July, 1997 by withdrawing the suspension order dated 16th of August, 1996 as he retired during the pendency of the proceedings on 30th of June, 2008. The said writ petition was allowed holding as under :-

“The respondents would however be well within their rights to deny the pay to the petitioner on account of principle of no pay for no work but under no circumstance they can deny him the benefit of this period while commuting the retiral benefits.

One would find sustenance of this view from few judgments of this Court which resonate the same principle. **Mathura Dass Gupta vs. Superintending Engineer, Circle Office, Dakshin Haryana Bijli Vitran Nigam Ltd. And others** reported as 2008(3) RSJ 251, **Shashi Kumar vs. Uttri Haryana Bijli Vitran Nigam and another** reported as 2005(1) SCT 576 and **Chander Singh Dalal vs. Haryana Dairy Development Cooperative Federation Ltd.** reported as 2008(3) RSJ 268.

For the aforesaid reasons, the writ petition is accepted and the petitioner is held entitled to regularization of the period for which he remained out of service on account of criminal prosecution pending against him and thus as a logical corollary the petitioner would be entitled to the retiral benefits by counting this period towards service benefits.”

4. Thus, while claim of the petitioner for salary was ordered to be declined on the principle of 'no work no pay' however, the service period was ordered to be counted for all retiral benefits. Petitioner approached Contempt Court claiming non-compliance of the aforesaid order by way of COCP No.988 of 2014 which was disposed off vide order dated 15th of October, 2015 observing as under :-

“The order of the writ Court mandated regularization for the period for which the petitioner remained out of service on account of criminal prosecution pending against him and also entitling him to retiral benefits by counting this period towards service benefits which has since been done as per the compliance report filed today, a copy of which has been supplied to the petitioner. This has rendered the instant petition infructuous and the same is disposed of as such with liberty to the petitioner to avail himself of any remedies available to him under the law in the event of any dis-satisfaction.”

5. Ld. Counsel for the petitioner submits that despite the fact that he was ordered to be reinstated in service he would be entitled for arrears of salary.

6. Per contra, Ld. Counsel for the respondents submits that whole

of the issue of the petitioner for the said period already stands settled by the order passed by this Court in CWP No.17910 of 2011 dated 1st of July, 2013 *ibid* and even the Contempt Court was satisfied that the same has been fully complied with, resultantly the petitioner cannot be allowed to agitate the same claim again by way of present writ petition.

7. I have heard counsel for the parties and have gone through records of the case.

8. In the considered opinion of this Court the plea raised by counsel for the respondents merits acceptance as from the record it is evident that whole of the claim sought to be re-agitated by the present petitioner already stands settled in the earlier round of litigation. Ld. Counsel for the petitioner is not in position to dispute the fact that the period in dispute has been counted for computing his retiral benefits.

9. Consequently, nothing survives in the present writ petition and the same is ordered to be dismissed.

January 11, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No