

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3737-2017 (O&M)
Reserved On 09.05.2023
Date of Order:26.05.2023.

Iqbal Singh

.Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.P.S.Dhaliwal, Advocate and
Mr. Manjinder Pal Singh Dhaliwal, Advocate
for the petitioner.

Mr. D.K.Singal, Addl.A.G., Punjab

Mr. N.S.Dadwal, Advocate
for respondent no.4.

ANIL KSHETARPAL, J

1. While praying for the issuance of a writ in the nature of certiorari to quash the orders passed on 09.11.2016 and 16.12.2014, the petitioner, in substance, claims that on his acquittal in a criminal case, he is entitled to directions to the respondents to release of all the service benefits of the suspension period.

2. The facts, in brief, are required to be noticed in order to comprehend the controversy involved in the present case.

3. After the appointment the petitioner was permitted to join as a Senior Lab. Assistant, but was arrested by the police on account of registration of murder case. He was suspended. Subsequently, he was released on bail on 15.11.2007. Thereafter, he submitted an application for rejoining his duty on 05.12.2007 but he was permitted to re-join only on

04.09.2013. On 28.03.2014 he was acquitted in the said criminal case. The competent authority has ordered that the petitioner will not be paid except the payment of subsistence allowance during the period of suspension. Challenging the correctness of the said order the present petition has been filed.

4. The claim is sought to be contested on the basis of Rule 7.3 of the Punjab Civil Service Rules Volume-I, Part-I, to contend that the competent authority while looking at the facts and circumstances of the case is entitled to pass a specific order denying the payment of complete salary even during the period of suspension.

5. Heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

6. The learned counsel representing the petitioner while relying upon the judgment passed in ***Uttar Haryana Bijli Vitran Nigam Limited and others vs. Jagdish Lal 2022(4)SCT 830***, contends that the petitioner on being reinstated was entitled to the payment of entire service benefits in terms of Rule 7.5 of the Punjab Civil Service Rules.

7. On the other hand, the learned Counsel representing the State while contesting the writ petition has submitted that the petitioner was involved in a serious criminal case registered under Section 302 IPC. He also submits that another FIR No.242 dated 22.07.2005 was also registered against the petitioner under Section 8, 9 and 12 of the Prevention of Corruption Act, 1988. The competent authority is entitled to form an opinion looking at the facts and circumstances of the case as the petitioner has been acquitted by giving him benefit of doubt and it is not an honourable

acquittal.

8. This Court has carefully considered the arguments of the learned counsels representing the parties while examining the case law on the subject.

9. In **Jagdish Lal's case (supra)**, the Division Bench was considering a case where departmental proceedings as well as criminal case were simultaneously initiated. The charges against the petitioner in the departmental proceedings were dropped, whereas the respondent therein earned an acquittal in FIR No.27, dated 23.02.1995, under Section 7 and 13 of the Prevention of Corruption Act, 1988. In that context, the Division Bench held that the respondent is entitled to the payment from the date of suspension till his acquittal.

10. However, in the present case the facts are entirely different. The murder case registered against the petitioner is not at the behest of the department. On account of his arrest in a murder case, he was suspended. Before acquittal in the criminal case, he was permitted to rejoin. He has been acquitted due to benefit of doubt. While invoking the principle of “no work no pay”, the State has refused to pay the service benefits to the petitioner apart from suspension allowance. In **Ranchhodji Chaturji Thakore vs. Superintendent Engineer, Gujarat Electricity Board and another (1996) 11 SCC 603** and **Union of India vs. Jai Pal Singh (2004) 1 SCC 121**, it has been held that the employee who was dismissed from service on conviction but reinstated on acquittal in appeal is not entitled to back wages for the period of absence. The Court held that the employee is entitled to back wages only from the date of acquittal. In a recent judgment

passed by the Supreme Court in **Raj Narain vs. Union of India and others (2019) 5 SCC 809**, the Supreme Court once again reiterated that the back wages can be paid only from the date of acquittal.

11. On careful reading of Rule 7.5 of the Punjab Civil Service Rules (extracted at page no.10 of the paper book) it is evident that on acquittal in criminal case the payment of complete pay for the period of suspension is not automatic but it is subject to certain conditions stipulated therein. It is in this context the State's counsel has correctly contended that the Disciplinary Authority is entitled to form an opinion.

12. Keeping in view the aforesaid settled law particularly when the judgment relied upon by the learned counsel representing the petitioner in **Jagdish Lal's case (supra)** is distinguishable. This court does not find it appropriate to issue the writ particularly when there is no allegation of malafide or arbitrariness on the part of the department.

13. Dismissed.

14. All the pending miscellaneous applications, if any, are also disposed of.

May 26, 2023
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO

