

120 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-22181-2023

Date of Decision: 04.10.2023

Jag Mohan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.

Present Mr. Ashwani Bhardwaj, Advocate for the petitioner.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioner by way of this petition has prayed for grant of interest on the delayed payment of retiral benefits.
2. The petitioner had been superannuated in the year 2017. The petitioner was dismissed from service due to his conviction under Sections 7 and 13(2) of the Prevention of Corruption Act, vide judgment of conviction and order of sentence dated 25.02.2011. However, on appeal, the aforesaid judgment of conviction and order of sentence was set aside and the petitioner was acquitted by the High Court vide judgment dated 30.07.2018, granting him benefit of doubt. Thereafter, the petitioner was treated to be reinstated in service and he was given retiral benefits.
3. The petitioner has preferred this writ petition claiming interest on the delayed payment of retiral benefits which were paid to him on 13.10.2022. He also claims promotion from the date, the persons who were junior to the petitioner, have been promoted and also claims other benefits including LTC, performance award etc.
4. I have considered the submission.
5. This Court finds that the service benefits are available to an employee, who is in service. It is seen that the petitioner was not in service

as he had been dismissed on account of conviction vide judgment dated 25.02.2011. Any order passed relating to promotion of an employee existing in service, do not create any right in his favour of being given the same benefit as promotion is always subject to a record of service which should be at least upto a particular benchmark. Since the petitioner was no more in service, the said aspects cannot be examined and, therefore, merely on the basis of acquittal subsequently by the High Court in the criminal case, no person can claim that he should be given consequential promotion too. Of course, if the dismissal is solely based on conviction, a person is entitled to be considered for reinstatement, as has been recently held by the Hon’ble Supreme Court in the case of **Imtiyaz Ahmad Malla vs. State of Jammu and Kashmir and others 2023 SCC Online SC 205.**

6. Keeping in view the principle as laid down by the Hon’ble Supreme Court in **Imtiyaz Ahmad Malla’s** case (supra), the claim of the petitioner for grant of promotion, LTD or performance award etc. is not made out. As regards granting of interest, since there is no fault on the part of the State Government and they have released the amount after the petitioner had been acquitted, no interest is liable to be paid to the petitioner. Thus, the claim for payment of interest is also fails and is accordingly rejected.

7. In view of the above, the writ petition is found to be devoid of merit and is accordingly dismissed.

8. All pending misc. application(s) also stand disposed of.

04.10.2023

rajesh

**[SANJEEV PRAKASH SHARMA]
JUDGE**

Whether speaking / reasoned : *Yes/No.*

Whether Reportable : *Yes/No*