

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2434 of 2018 (O&M)

Date of Order:14.09.2023

Gurdev Singh

.Appellant

Versus

Financial Commissioner and Secretary, PWD(B&R) and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naveen Daryal, Advocate,
for the appellant.

Mr. Jaspal Singh Pannu, AAG, Haryana
Ms. Vibha Tewari, AAG, Haryana

ANIL KSHETARPAL, J

1. The correctness of the concurrent findings of fact arrived at by the courts below is assailed in this regular second appeal by the plaintiff.
2. His suit for grant of decree of declaration that the order dated 30.07.2010, whereby he was held entitled to only the suspension allowance during the period he remained under suspension has been dismissed by both the courts below.
3. The appellant was involved in a criminal case bearing FIR No.13, dated 21.01.2008, registered under Section 148/149/302/307 and 323 IPC, at Police Station Chhapra, District Yamunanagar. Hence, he was placed under suspension on 06.03.2008. On 25.01.2010, he was acquitted and thereafter he was reinstated in service on 29.03.2010.
4. The appellant also submitted a request that he may be reinstated and he shall not claim wages beyond the suspension allowance.

5. Both the courts have relied upon the aforesaid undertaking of the appellant to deny the relief.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

7. The learned counsel representing the appellant submits that once the appellant has been reinstated, he is entitled to reinstatement with full back wages and therefore, he could not be denied the difference of salary between the pay and suspension allowance.

8. This court has considered the submissions of the learned counsel representing the appellant.

9. FIR No.13, dated 21.01.2008, was not registered at the behest of the department. In **Ranchhodji Chaturji Thakore vs. The Superintendent Engineer, Gujarat Electricity Board, HIMMA, 1996 (11) SCC 603**, the Supreme Court held that if the criminal case was not at the behest of the department, the employee is not entitled to back wages. This issue was again reconsidered by the Supreme Court in **Union of India and others Vs. Jaipal Singh, (2004) 1 SCC 121**. While approving the view taken in **Ranchhodji Chaturji Thakore's case (supra)**, the Court held that the employee is only entitled to back wages from the date of his acquittal.

10. The learned counsel representing the appellant submits that let the appellant be paid back wages from the date of acquittal i.e. 25.01.2010. In fact, this issue has never been pressed before the courts below.

11. Before an order is passed, the court is required to examine “whether there was any unreasonable delay in reinstatement in employment after the acquittal?

12. For that purpose, the appellant is required to produce material

evidence to prove the date on which the judgment of acquittal was handed over to the department. In this case, the order of reinstatement has been passed within a period of two months, which is not unreasonable.

13. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

14. Dismissed.

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

September 14, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO