

2023:PHHC:138523
**124 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-4873-2018 (O&M)
Date of decision: 30.10.2023

Raj Kumar

....Appellant

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Chanderhas Yadav, Advocate for the appellant

Mr. J.S.Pannu, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

1. Learned First Appellate Court has partly accepted the appellant's first appeal. However, the First Appellate Court has permitted the appellant to file a representation to the Department for counting the period of suspension as his duty period for all purposes. Para 16 of the judgment passed by the First Appellate Court reads as under:-

“16. So far as the contention regarding the period to be counted as his duty for all purposes, is concerned, this fact is to be decided by the department. The plaintiff is at liberty to file the representation or if any representation is pending before the concerned authority, the same be decided within two months from the receipt of this judgment.”

2. The plaintiff filed a suit for the grant of decree of declaration that he is entitled to the subsistence allowance during the period of suspension. The appellant was suspended on account of the fact that he was arrested in FIR No.5 dated 09.01.2000 for

having committed the offence under Section 302, 201 IPC read with Section 34 IPC. The trial court convicted the appellant, however, in appeal, the High Court ordered his acquittal. Subsequently, the appellant was reinstated in service. The First Appellate Court has held that the appellant cannot be deprived of the subsistence allowance from the date of suspension to the date of his acquittal. He has also been held entitled to the full pay and allowances from the date of his acquittal.

3. In these circumstances, the First Appellate Court has permitted the plaintiff to file his representation before the Department for counting this period as his duty period. In these circumstances, this Court does not find it appropriate to interfere, however, the representation, if any filed, shall be decided by the Department, within a period of 3 months, from the date of its filing.

4. Disposed of.

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

30.10.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE