

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

LPA-1201-2022 (O&M)
Date of decision : 17.07.2023

Suraj BhanAppellant

Versus

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. R.K. Malik, Senior Advocate, with
Mr. Varun Veer Chauhan, Advocate, for the appellant.

Mr. Deepak Balyan, Addl. Advocate General, Haryana.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

CM-2897-LPA-2022

For the reasons set out in the application, duly supported by
an affidavit, delay of 17 days in filing the appeal is condoned.

Application is, accordingly, allowed.

CM-2243-LPA-2023

Annexure A-1 is taken on record.

Application is allowed.

LPA-1201-2022 (O&M)

1. This appeal has been filed against the order and judgment dated 14.10.2022 passed by the learned Single Judge dismissing the writ petition (CWP No. 17760 of 2017) filed by the appellant challenging the order dated 15.02.2017, vide which the period of his suspension, i.e. from 18.06.2004 to 20.10.2011, and the period during which he remained out of service upto his retirement, i.e. from 21.10.2011 to 29.02.2012, has been treated as leave of the kind due.

2. The appellant being aggrieved by the order dated 15.02.2017 (*ibid*) had filed the writ petition claiming full salary for the period of his suspension as well as the period during which he remained out of service, on the ground that he was placed under suspension on account of initiation of criminal proceedings against him and was, thereafter, terminated from service on account of his conviction by the trial court, but was subsequently reinstated on account of his acquittal by the appellate court. The appellant claimed that since he had been acquitted by the appellate court, therefore, he is entitled to the benefit of full salary and all the benefits for the suspension period and the period during which he remained out of service on account of his termination due to his conviction by the trial court, which was ultimately set aside.

3. The learned Single Judge, after taking into consideration all the aspects as well as the provisions of the Punjab Civil Service Rules (Volume-I, Part-I) (as applicable to the State of Haryana) and the decisions of the Supreme Court on the issue, has held that the authorities had placed the appellant under suspension on account of his arrest and prosecution in a criminal case and had, thereafter, terminated him on account of his conviction by the trial court. The learned Single Judge has also taken into consideration the fact that the appellant was ultimately reinstated on his acquittal by the appellate court and the authorities in exercise of their powers under the Rules have taken a decision to the effect that the period during which the appellant was under suspension and the period during which he was out of service on account of his conviction by the trial court would be treated as leave accrued in the account of the official and that the appellant would not be entitled to any

other monetary benefit, except the subsistence allowance that had been paid to him during his suspension.

4. The learned Single Judge has taken into consideration the fact that the appellant was not malafidely or maliciously prosecuted by his employer nor is there any finding in this regard and, therefore, the acts of the employer in placing the appellant under suspension on initiation of criminal proceedings against him, terminating his services on his conviction by the trial court and reinstating him on his acquittal by the appellate court, were bonafide and in accordance with law and no fault could be found with the same.

5. The learned Single Judge has also recorded a categoric finding, which on perusal of the record is justified, that acquittal of the appellant was based on benefit of doubt and was not a clean acquittal. The learned Single Judge has rightly interpreted the term “Full Exoneration” to mean clean acquittal and not acquittal based on benefit of doubt. The learned Single Judge has taken into consideration this fact and rightly observed that the appellant was convicted by the trial court on the basis of evidence produced by the prosecution but was acquitted by the appellate court granting him the benefit of doubt and in such circumstances, the authorities have exercised the power vested in them under the Rules and denied him the benefit of full salary and other benefits attached to the same and have confined this period to be treated as leave of the kind due.

6. The learned Single Judge has also taken into consideration, and in our considered opinion rightly followed, the decisions of the Supreme Court in **Union of India Vs. Jaipal Singh**, (2004) 1 SCC 121,

Ranchhodji Chaturji Thakore Vs. Superintendent Engineer, Gujarat Electricity Board and another, (1996) 11 SCC 603 and **Raj Narain Vs. Union of India and others,** (2019) 5 SCC 809 and has rightly distinguished the decision of a Single Bench of this Court in **Anil Kumar Tyagi Vs. Dakshin Haryana Bijli Vitran Nigam Limited and another** (CWP No. 13988 of 2015, decided on 24.01.2017), relied upon by learned counsel for the appellant. We uphold the reasoning given by the learned Single Judge in this regard.

7. In view of the aforesaid aspects, we do not find any illegality or perversity in the order and judgment passed by the learned Single Judge, warranting interference by this Court. More so in view of the settled law that payment of full salary etc. in cases of reinstatement after acquittal is not automatic or mandatory and depends upon the facts of each case and the rules governing the same. We reiterate that in the facts and circumstances of the present case, the decision of the learned Single Bench denying the same to the appellant-petitioner is in accordance with law.

8. The appeal being bereft of merits is, accordingly, dismissed.

9. Pending application stands disposed of.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

July 17, 2023
ndj

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No