

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-25968-2023 (O&M)

Decided on 20.11.2023

Gordhan Dass

... Petitioner

VS.

MD, UHBVN & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Shvetanshu Goel, Advocate for the petitioner

Sandeep Moudgil, J.

The petitioner has filed the instant writ petition under Article 226 of the Constitution for issuance of a writ in the nature of certiorari for quashing of the impugned order dated 21.08.2023 (Annexure P-14) passed by the respondent authorities whereby the suspension period w.e.f. 28.06.1996 to 05.10.1997 and 29.01.2001 to 26.01.2010 of the petitioner has been treated as 'leave of kind due' with a further direction to the respondents to treat the period w.e.f. 28.06.1996 to 05.10.1997 and 29.01.2001 to 26.01.2010 of the petitioner as a period spent on duty for all intents and purposes and further for releasing all the service benefits and arrears thereof alongwith interest.

Learned counsel for the petitioner submitted that criminal case i.e. FIR No.199 dated 14.09.1996 under Section 409 IPC at PS Madlauda was lodged against the petitioner and he remained suspended w.e.f. 28.06.1996 and thereafter, the petitioner was reinstated in service on 30.09.1997 however, again, the petitioner was placed under suspension w.e.f. 29.01.2001 till 24.01.2010 and vide judgment dated 18.08.2009, the petitioner was acquitted in the above said FIR. It is further submitted that the petitioner filed civil suit which was decreed and the petitioner was held entitled to full

pay and allowances for the period w.e.f. 28.06.1996 to 30.09.1997 and from 15.03.2001 to 25.01.2010 along with interest, however, the said judgment and decree was challenged by the respondents in appeal and the first appellate Court dismissed the said appeal. Thereafter, RSA-1375-2015 was filed by the respondents wherein this Court vide judgment dated 11.04.2023, while setting aside the order dated 21.06.2013, granted liberty to the respondents to pass afresh order and it is pursuant to the said order of this Court that the departmental authorities have passed the impugned order dated 21.08.2023 (Annexure P14).

It is argued that the impugned order has been passed mechanically and is in total contravention of rule 7.2 to 7.5 of the Punjab Civil Services Rules, Vol-I as applicable to the State of Haryana, which provides for treating the entire period of suspension preceding dismissal, removal or compulsory retirement as period spent on duty for all purposes in case the employee stood fully exonerated and in that case, the employee shall be entitled to full salary where the government employee is acquitted of the charge/claim. Reliance has been placed on **Buddhi Singh vs. State of Haryana 2016 (4) RSJ 170 and BD Gupta vs. State of Haryana (1973) 3 SCC 149.**

Heard learned counsel for the petitioner.

In compliance of the judgment dated 11.04.2023, the respondents have passed the order by giving due opportunity of hearing to the petitioner and also considering the reply. The relevant portion of the order dated 21.08.2023 reads as under:-

“Accordingly, the personal hearing/opportunity has been given to Sh. Gordhan Dass vide this office Memo No. CH-73/EP-8745/L dated 22.06.2023 and during the hearing on dated 04.07.2013, he submitted his representation in the form of reply of notice. After considering the reply & go through the contents of this case the competent authority has found that the punishment has already been given to the retiree and decided that the suspension period be treated as leave kind due.

Hence, the suspension period w.e.f. 28.06.1996 to 05.10.1997 and 29.01.2001 to 26.01.2010 of Sh. Gordhan Dass MR (Retd. On 31.10.2012) S/o Sh. Puran Singh is hereby regularized as leave of kind due.”

This Court does not find any illegality or infirmity in the impugned order inasmuch as the petitioner has been given due personal hearing and his representation in the form of reply has also been considered and thereafter only, the respondents have arrived at the conclusion that the suspension period of the petition be treated as leave of kind due.

No ground for interference in the impugned order dated 21.08.2023 is made out.

Dismissed.

20.11.2023
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No