



CWP-3358 of 2002

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-3358 of 2002

Date of Decision:23.08.2024

Dalip Singh

....Petitioners

Versus

P.S.I.E.C and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Kanverpal Singh Gill, Advocate, for
Mr. Dhiraj Chawla, Advocate,
for the petitioner.

Mr. Birinder Pal, Advocate,
for respondent No.1.

AMAN CHAUDHARY J. (Oral)

1. Prayer made in the present writ petition is for quashing the orders dated 27.02.2001 and 08.08.2001, Annexures P-4 and P-5 respectively, whereby a punishment of censure has been imposed upon the petitioner and period of suspension with effect from 03.11.1999 to 26.02.2001 has been treated as leave of the kind due.

2. While issuing notice of motion on 22.02.2002, reliance was placed on the judgment of this Court in case of **Makhan Singh vs. State of Punjab and others**, CWP No.17615 of 1999, which has been disposed of vide judgment dated 15.01.2002, which reads thus:-



“It could not be disputed during the course of arguments that in view of letter, Annexure P-9, instructions contained therein will hold the filed in a situation, as is available in the present case, i.e., where two increments are stopped without cumulative effect, period of suspension has to be treated on duty. That being so, it is ordered that the period during which petitioner remained under suspension shall be treated as if on duty and further that petitioner shall be entitled to consequential benefits that may accrue to him under the Rules.

Disposed of accordingly.”

3. Further, in an identical matter i.e. CWP No.10857 of 2021, titled as **Harinder Singh Chahal vs. State of Punjab**, decided on 30.01.2024, wherein also the suspension period was ordered to be treated as leave of the kind due, has been dealt with, the relevant part thereof reads thus:-

“10. The issue which arises for consideration is, as to whether the suspension period is to be treated as duty period or not, when ultimately minor punishment is awarded in the disciplinary proceedings which is not res integra. The Division Bench of this Court in Y.P. Sehgal’s case (supra), has held that when the petitioner has been reinstated and the proposed disciplinary action against him has resulted in imposition of minor punishment, it is neither permissible in law nor fair to deny him the arrears of salary and allowances for the suspension period.

11. To the same effect are the judgments of this Court in Dalip Singh’s case, Dr. M.L. Kamra’s case and O.P. Sindhvani’s case (supra).

12. Since both the punishments i.e. stoppage of one annual increment without cumulative effect and censure are minor punishments in terms of Rule 5 of the 1970 Rules,



therefore, the suspension period cannot be treated differently altogether by the authorities of the department in discriminatory and arbitrary manner, which is not permissible under the law. In other remaining cases, the respondents have treated the suspension period as duty period and granted due benefits to them, for the said period, barring the case of the petitioner in which the suspension period has been treated as leave of the kind due and even in the light of the Instructions dated 26.03.1990, whereby it has been decided that in case the departmental action has been initiated against an employee and he is awarded only a minor punishment, then his suspension period will be unjustified and he will be given full pay and allowances for the suspension period by passing an appropriate order.

13. For the foregoing reasons and in view of the Instructions dated 26.03.1990 and the law laid down by this Court in the abovesaid judgments, the present petition is allowed and the impugned order dated 11.03.2021 (Annexure P-7) is set-aside and the respondents are directed to treat the suspension period of the petitioner from 04.05.2017 to 12.06.2018, as duty period and the petitioner shall be entitled to all consequential benefits including pay and allowances after adjusting the suspension allowance and the same shall be released to the petitioner within a period of 03 months from the date of receipt of certified copy of this order.”

4. Learned counsel appearing on behalf of respondent No.1 despite his best efforts, has been unable to controvert the submissions made on behalf of the petitioner and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

