

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

(238)

CWP-2636-2021

Date of Decision : February 07, 2024

Krishan Kumar Rathee**.. Petitioner****Versus****State of Haryana and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. R.K. Malik, Sr. Advocate, with
Mr. Kartikey Chaudhary, Advocate, for the petitioner.

Mr. Pankaj Middha, Addl. Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the orders dated 31.05.2019/03.06.2019 (Annexure P-3) and 25/28.08.2020 (Annexure P-4) by which, the appeal of the petitioner has been dismissed.

2. Learned senior counsel for the petitioner submits that the petitioner was suspended keeping in view the fact that an FIR was registered against the petitioner while in service being FIR No.45 dated 11.10.1996. Keeping in view the said FIR, the petitioner was suspended from service w.e.f. 11.10.1996 but during the pendency of the criminal proceedings, he was reinstated in service on 13.07.1999. In the year 2005, the petitioner was held guilty qua the allegations alleged in the FIR and convicted and was awarded punishment of rigorous imprisonment for a period of one year along with fine of ₹1000/- for offence under Section

13(2) of the Prevention of Corruption Act, 1988 and further sentenced to undergo rigorous imprisonment for a period of six months along with fine of ₹500/- under Section 7 of Prevention of Corruption Act, 1988.

3. Thereafter, the services of the petitioner were terminated on 08.01.2007 on account of conviction in a criminal case. The order of conviction was challenged by the petitioner by filing an appeal and vide order dated 15.11.2018 (Annexure P-2), the petitioner was acquitted by giving him the benefit of doubt. In the meanwhile, the petitioner attained the age of superannuation and retired from service on 28.02.2009.

4. Keeping in view the acquittal of the petitioner, the respondents passed an order dated 03.06.2019 annexed as Annexure P-3 that the suspension period of the petitioner from 11.10.1996 to 28.07.1999 will be treated as duty period but the period for which the petitioner remained out of service till his retirement i.e. 08.01.2007 to 28.02.2009, no financial benefit will be given. The said order was confirmed by the Appellate Authority vide order dated 25/28.08.2020 (Annexure P-4).

5. The present writ petition has been filed by the petitioner claiming that once the petitioner has been acquitted, he is entitled for full salary for the period he remained out of service till his retirement i.e. from 08.01.2007 to 28.02.2019 and by taking into account the said period as a qualifying service to compute the pensionary benefits is arbitrary and illegal, which act on the part of the respondents is causing prejudice to the petitioner.

6. After arguing for some time, learned counsel for the petitioner submits that the petitioner is not claiming any arrears for the period he remained out of service keeping in view the order passed but the notional benefit be given for the said period qua the increment and fixation of his

pay upto the retirement and consequent revised pension and other pensionary benefits so that the petitioner does not suffer any pecuniary loss.

7. Learned State counsel submits that in case any representation is made by the petitioner, the same will be considered and appropriate order will be passed.

8. I have heard learned counsel for the parties and have gone through the record with their able assistance.

9. As undertaken by the learned senior counsel appearing on behalf of the petitioner, the petitioner has already decided not to press his claim for back wages for the period he remained out of service. The only claim pressed is with regard to the grant of notional benefit for the period he remained out of service so that the petitioner can get his entitled pensionary benefits after fixation of his pay upto the date of his retirement. The said claim needs to be allowed once the petitioner has been acquitted by the competent Court of law. The petitioner is entitled that he be treated in service for the period he remained out of service from 08.01.2007 to 28.02.2009 and only the notional benefits are to be given for the said period and no actual financial benefit are to be given to the petitioner for the said date.

10. Keeping in view the above, a direction is issued to the respondents to recalculate the pensionary benefits of the petitioner after giving him the benefit of increment for the period 08.01.2007 till 28.02.2009 and recalculate his pensionary benefits accordingly.

11. It may be noticed that the qualifying service for computing the pensionary benefits will be given upto 28.02.2009 and the period for which the petitioner remained out of service shall be considered as

a part of qualifying service only for computing the pensionary benefits but not for grant of any arrears of salary.

12. It may be noticed that as the petitioner has only been acquitted by the competent Court of law on 15.11.2018 (Annexure P-2), no arrears of the revised pension will be given to the petitioner upto the date of his acquittal. Only the benefit of revised pension, as admissible to the petitioner by taking into account his service rendered from 08.01.2007 till 28.02.2009 will be given from 15.11.2018 onwards only and not from any date prior.

13. Let this order be complied with within a period of three months from the date of receipt of copy of this order.

14. The present writ petition is disposed of in above terms.

February 07, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No