

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-2633-2022 (O&M)
Date of Decision: 03.09.2024

Dr. Kuldeep Singh
...Petitioner

Versus

State of Haryana and others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. RN Lohan, Advocate for the petitioner

Mr. Dushyant Saharan, AAG, Haryana

AMAN CHAUDHARY, J.

1. As it emerges from the averments, the petitioner, while working as Veterinary Surgeon, was placed under suspension retrospectively w.e.f. 19.04.2015 vide order dated 15.09.2015, ensuing registration of FIR No.267 against him. However, he was subsequently reinstated vide order dated 18.10.2016, subject to the outcome of the criminal case, wherefrom he was honorably acquitted vide judgment dated 15.02.2019, but the period of suspension was directed to be treated as leave without pay instead of, on duty, vide order dated 10.08.2020.
2. Parity has been claimed by the petitioner on the basis of relief granted by the respondents to a similarly situated employee, Dr. Akshay Kumar, Veterinary Surgeon, working in the same department, who was implicated in a criminal case under the Prevention of Corruption Act, reinstated vide order dated 22.12.2020 after his acquittal and his period of suspension was treated to be as spent on duty for all intents and purposes, despite there even being a departmental inquiry conducted against him. Moreso, the suspension of the petitioner made

applicable with retrospective effect, cannot also be sustained, as during those 5 months, he had performed his duties.

3. It would be apposite to refer to Rules 7.3 and 7.5 Punjab Civil Services Rules, Vol. I, Part I, as applicable to the State of Haryana, in regard to the award of full salary during the period of suspension, relevant portion whereof reads thus:

“ALLOWANCES ON REINSTATEMENT

7.3 (1) When a Government employee, who has been dismissed, removed, compulsory retired, or suspended, is reinstated, or would have been reinstated but for his retirement on superannuation the authority competent to order the reinstatement shall consider and make a specific order:-

(a) regarding the pay and allowances to be paid to the Government employee for the period of his absence from duty, occasioned by suspension and/or dismissal, removal or compulsory retirement ending with his reinstatement on or the date of his retirement on superannuation as the case may be, and

(b) whether or not the said period shall be treated as a period spent on duty.

(2) Where the authority mentioned in sub-rule (1) is of opinion that the Government employee has been fully exonerated or, in the case of suspension, that it was wholly unjustified, the Government employee shall be given the full pay and allowances to which he would have been entitled, had he not been dismissed, removed, compulsorily retired or suspended, as the case may be.

(3) In other cases, the Government employee shall be given such proportion of such pay and allowances as such competent authority may prescribe:

Provided that the payment of allowances under sub-rule (2) or sub-rule (3) shall be subject to all other conditions under which such allowances are admissible. Provided further that such proportion of such pay and allowances shall not be less than the subsistence and other allowances admissible under rule 7.2.

(4) In a case falling under sub-rule (2) the period of absence from duty shall not be treated as a period spent on duty for all purposes.

(5) In a case falling under sub-rule (3) the period of absence from duty shall not be treated as a period spent on duty unless such competent authority specifically directs that it shall be so treated for any specified purpose:

Provided that if the Government employee so desires, such authority may direct that the period of absence from duty shall be converted into leave of any kind due and admissible to the Government employee.

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SUSPENSION DURING PENDENCY OF CRIMINAL PROCEEDINGS, OR PROCEEDINGS FOR ARREST FOR DEBT, OR DURING DETENTION UNDER A LAW PROVIDING FOR PREVENTIVE DETENTION

7.5. An employee of Government against whom proceeding have been taken either for his arrest for debt or on a criminal charge or who detained under any law providing for preventive detention should be considered as under suspension for any periods during which he is detained in custody or is undergoing imprisonment, and not allowed to draw any pay and allowances (other than any subsistence allowance that may be granted in accordance with the principles laid down in rule 7.2) for such period until the final termination of the proceedings taken against him or until he is released from detention and allowed to rejoin duty, as the case may be. An adjustment of his allowances for such periods should thereafter be made according to the circumstances of the case, the full amount being given only in the event of the officer being acquitted of blame or (if the proceedings taken against him were for his arrest for debt), of its being proved that the officer's liability arose from circumstances beyond his control or the detention being held by the competent authority to be unjustified."

4. While considering the scope of Rule 7.5 *ibid*, the Division Bench in **Hukam Singh vs. State of Haryana**¹, held the petitioner therein, entitled to full salary and allowances for the period of his suspension and dismissal, after Hon'ble the Supreme Court acquitted him of offences under Sections 302, 307, and 324, read with Section 34 of the IPC. It was observed that, "It is abundantly clear that Rule 7.3 of the Rules is the general rule, while in case a person is acquitted, it is

specific Rule 7.5 of the Rules that would be attracted. The law is well settled that special Rule will always taken precedence over the general rule and consequently it must follow that under Rule 7.5 of the Rules, referred to above, the petitioner was entitled to the full back wages because, as mentioned above, the earlier decisions referred to above have little application in the present case.”

5. In light of the aforesaid dictum and statutory provisions, the petitioner in **Ram Anjore vs. Uttari Haryana Bijli Vitran Nigam Limited through its Managing Director**², was held by this Court to be entitled to complete salary during the period he remained under suspension after he was acquitted by the appellate Court, pursuant to which he was reinstated.

6. In a similar vein, full pay and allowances for the period of suspension were granted to the petitioner in **Jagmohan Lal vs. State of Punjab**³, while observing that, “The moment he is acquitted of the charge he is acquitted of the blame”. Placing reliance upon the above, this Court in **Maha Singh vs. State of Haryana and another**⁴, deemed Government servant, dismissed from service due to pendency of criminal proceedings and later reinstated after being acquitted, qualified for full remuneration for the same duration.

7. In **Brahma Chandra Gupta vs. Union of India**⁵, the appellant was acquitted of the criminal charges, as also no disciplinary proceedings initiated against him, Hon’ble the Supreme Court observed and held that, “...The appellant was a permanent UDC who has already retired on superannuation and must receive a measure of socio-economic justice. Keeping in view the facts of the case that the appellant was never hauled up for departmental enquiry, that he was prosecuted and has been ultimately acquitted, and on being acquitted he was

² 2016 (2) SCT 716.

³ 1967 AIR (P&H) 422.

⁴ 1994 (1) SCT 154

⁵ 1984 (2) SCC 433.

reinstated and was paid full salary for the period commencing from his acquittal, and further that even for the period in question the concerned authority has not held that the suspension was wholly justified because three-fourth of the salary is ordered to be paid, we are of the opinion that the approach of the trial court was correct and unassailable. The learned Trial Judge on appreciation of facts found that this is a case in which full amount of salary should have been paid to the appellant on his reinstatement for the entire period. We accept that as the correct approach...”

8. The substratum of justice necessitates that once exonerated, it is both just and imperative that the individual be fully restored in terms of status as also the benefits to which he is entitled, as if the order passed against him on account of involvement in the criminal case, never came into being. Moreover, a similarly circumstanced employee when received the benefit of the period of suspension, which have been withheld in case of the petitioner, undermines the very essence of equitable treatment as well.

9. In view of the afore discussion and as a fall out thereof, the present petition is allowed. The impugned orders dated 24.08.2015 and 10.08.2020 are set aside. The respondents are directed to release the salary to the petitioner, for the period he remained under suspension, alongwith interest @ 6% per annum, within a period of three months.

(AMAN CHAUDHARY)
JUDGE

03.09.2024
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Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No