

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

LPA-343-2023 (O&M)

Date of decision:- 18.01.2024

State of Haryana and others

...Appellant(s)

Versus

EASI Mohd. Alam @ Alam

...Respondent(s)

**CORAM:**     **HON'BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE AMAN CHAUDHARY**

Present:     Mr. Deepak Balyan, Additional Advocate General, Haryana,  
for the appellants.

Mr. Mohnish Sharma, Advocate,  
for the respondent.

\* \* \* \*

**RITU BAHRI, A.C.J. (ORAL)**

**CMs-975 & 976-LPA-2023**

For the reasons mentioned therein, the delay of 62 days in re-filing and 53 days in filing the appeal is condoned.

The applications stand disposed of.

**LPA-343-2023**

The appellants have come up in appeal against the judgement and order dated 19.09.2022 passed by the learned Single Judge, whereby the writ petition filed by the petitioner (respondent herein) was allowed by quashing the order dated 20.11.2017 (Annexure P-2) and the order dated 01.01.2018 (Annexure P-3) denying him back-wages.

2.             In the present case, FIR No. 476 dated 16.11.2002 under Sections 223 and 224 of the Indian Penal Code (IPC) was registered against the respondent at Police Station Sarai Khawaja, Faridabad on the allegation that one Tahir, who was accused in FIR No. 427 dated 28.10.2002 under Sections 395, 397, 364, 342, 506 & 412 IPC and Section 25 of the Arms Act, had succeeded in escaping from his custody due to negligence on his part. The respondent was accordingly convicted for the commission of offence punishable under Section 223 IPC and sentenced to undergo simple imprisonment for a period of two years vide judgement dated 01.10.2011 and the order of sentence dated 05.10.2011 passed by the Judicial Magistrate, 1<sup>st</sup> Class, Faridabad. Thereafter, he filed an appeal before the Additional District and Sessions Judge, Faridabad which was dismissed on 06.04.2012. Being aggrieved, he filed Criminal Revision No. 1309 of 2012 which was allowed by this Court vide order dated 09.06.2017 setting aside his conviction. The respondent after acquittal as per the order dated 09.06.2017 has been re-instated

in service and is seeking salary and consequential benefits for the period he remained out of service.

3.           The learned Single Judge in the impugned judgement has referred to Rule 7.3(2) of the Punjab Civil Service Rules, Vol. 1, Part I holding that a government employee, who has been dismissed/removed/compulsorily retired or suspended, if re-instated upon having been fully exonerated, would be entitled to full salary and allowances for the period he remained out of service.
4.           The learned Single Judge has also referred to the judgement dated 13.10.2014 passed by this Court in CWP-17952-2012 titled as *Kailash Chander Sharma Vs State of Haryana and another*, wherein it has been held that where the departmental proceedings are dropped by recording the fact that the charges are not proved, the denial of consequential benefits of actual arrears of the salary for the period the person remained out of service on the basis of ‘no work no pay’ is arbitrary and cannot be sustained.
5.           In paragraph 15 at page 82 of the order dated 09.06.2017 passed by this Court in Criminal Revision No. 1309 of 2012, it has been observed that the prosecution had failed to adduce any credible and conclusive evidence to prove beyond any shadow of doubt that Tahir had been kept in confinement in the capacity of an accused and consequentially the petitioner was under a legally bounden duty to keep him secure in confinement. The essential ingredient for commission of offence under Section 223 IPC had not been established. Thus, the respondent was acquitted on the basis of no evidence led by the prosecution. Hence, on these basis, the benefit of arrears cannot be denied to the respondent as his acquittal was not based on lack of evidence.
6.           In the circumstances, we do not find any ground to interfere with the impugned judgement rendered by the learned Single Judge.
7.           The appeal being meritless accordingly stands dismissed.

(RITU BAHRI)

ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)

JUDGE

18.01.2024

Amodh Sharma

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |