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

CWP-12683-2010**Date of Decision: 27.05.2024****BALBIR SINGH**

..... Petitioner

*Versus***STATE OF PUNJAB & ORS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. M.S. Dhammi, Advocate and
Mr. L.S. Multani, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition is seeking setting aside of order dated 17.07.2010 (Annexure P-6) whereby he was dismissed from service on the ground of conviction.

2. The petitioner (deceased) was working with respondent as Assistant Sub-Inspector. He came to be implicated in a criminal case under Section 7 read with Section 13 (2) of Prevention of Corruption Act, 1988. He faced trial and ultimately came to be convicted vide judgment dated 17.01.2004. He preferred an appeal before this Court which vide order dated 05.02.2004 (Annexure P-1) suspended the sentence. He further filed an application before this Court seeking stay of judgment of conviction. This Court vide order dated 03.02.2005 passed in Criminal Appeal No.285-SB of 2004 stayed the judgment of conviction. The respondent reinstated him, however, vide order dated 16.07.2010



(Annexure P-6) despite stay of judgment of conviction dismissed him from service. He was reinstated despite his conviction because his appeal was pending before this Court and his sentence as well as conviction was stayed by two different orders of this Court. The aforesaid appeal of the petitioner came to be dismissed vide order dated 08.04.2015 passed by this Court. He was receiving salary prior to his dismissal i.e. 16.07.2010, however, he was not paid salary post his dismissal.

3. Mr. M.S. Dhammi, Advocate submits that petitioner was entitled to pay and allowances during 16.07.2010 to 08.04.2015 because he was wrongly dismissed from service.

4. Learned State counsel submits that petitioner was dismissed from service because he was convicted by Trial Court, however, he expressed his inability to controvert the fact that he was reinstated after judgment of conviction was stayed by this Court.

5. I have heard the arguments of both sides and with the able assistance of learned counsels scrutinized the record.

6. It is apt to mention here that the petitioner was initially seeking pension despite his conviction, however, at this stage, he is praying for pay/ pension from July' 2010 to April' 2015.

7. The petitioner was convicted vide judgment dated 17.01.2004 passed by the Trial Court. On account of his conviction, he could not remain in force. He was bound to be dismissed from service. The respondent on account of suspension of sentence and thereafter stay of judgment of conviction, reinstated him.

8. It is also apt to mention here that initially, he was prematurely retired vide order dated 14.08.2000. As judgment of

conviction was stayed, the respondent reinstated him in service and he without any interruption worked from 06.09.2004 to 16.07.2010. There was no occasion to dismiss him from service when he was reinstated in view of stay of judgment of conviction.

9. Considering, the aforesaid fact and further keeping in mind that petitioner has passed away and his widow, at this stage, is seeking pay and allowances for the period from 16th July’ 2010 to 8th April’ 2015, this Court finds it just, fair and reasonable to direct the respondent to pay 50% of pay and allowances for the period from 16th July’ 2010 to 8th April’ 2015 which the petitioner was getting on the date of his dismissal i.e. 16.07.2010.

10. It is made clear that petitioner shall not be entitled to interest on the aforesaid amount. Let the needful be done within a period of 3 months from today.

11. Disposed of in the above terms.

(JAGMOHAN BANSAL)
JUDGE

27.05.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>