

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

116

CWP-11615-2024
Date of decision: 05.08.2024

SHISH RAM

...PETITIONER

Vs.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sidharth Grover, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondents to pay interest @ 12% per annum on the delayed payment of service benefits including arrears/backwages for the period from 12.05.2006 to 19.07.2020.
2. The petitioner was dismissed from service vide order dated 12.05.2006 (Annexure P-1), on account of registration of an FIR against him under Section 18 of the NDPS Act. He was dismissed from service invoking 2nd proviso to Article 311(2) of the Constitution of India. He preferred an appeal which was dismissed by Appellate Authority. The petitioner was acquitted vide judgment dated 20.05.2009 passed by the trial Court. The respondent-State accepted judgment of trial Court and no appeal came to be filed. He preferred CWP-17929-2008 against order of dismissal which came up for consideration before this Court on 13.01.2020. This Court, vide order dated 13.01.2020 set aside order of dismissal as well as order passed by the Appellate Authority. The matter was remanded to Punishing Authority for passing a fresh order. It was



clarified that upon reinstatement, he would not be entitled to the consequential service benefits of seniority and arrears of pay etc. for the period he remained out of job. The relevant extracts of order dated 13.01.2020 are reproduced as below:-

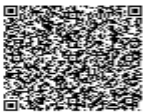
“In view of the above, the impugned order of dismissal dated 12.05.2006 (Annexure P-2) as also the order passed by the Appellate Authority at Annexure P-3, are set aside.

Matter is remanded to the punishing authority for passing of an order afresh.

It is, however, clarified that pursuant to the setting aside of the dismissal order, petitioner would be reinstated in service on the post of Constable. However, upon reinstatement he would not be entitled to the consequential service benefits of seniority, arrears of pay etc. for the period he remained out of job and the same would be subject to the outcome of the fresh order that has been directed to be passed by the competent authority.”

3. The respondent conducted fresh inquiry and Disciplinary Authority vide order dated 29.04.2021 converted the punishment of dismissal from service into forfeiture of 5 years' service. The petitioner was declared ineligible to financial benefits, seniority and other annual increments for the period he remained out of service. The petitioner preferred an appeal before Appellate Authority which came to be disposed of vide order dated 07.10.2022. The Appellate Authority ordered to grant all service benefits including arrears from the date of dismissal to date of reinstatement i.e. from 12.05.2006 to 19.07.2020. The petitioner has been paid 100% backwages in view of order passed by Appellate Authority. He is now claiming interest on backwages.

4. I have heard counsels for the parties and with their able assistance perused the record.



5. The respondent in its reply has justified release of backwages in view of Rule 7.3(2) and (3) of the Punjab Civil Services Rules. The petitioner was dismissed from service in 2006 and he remained out of service till 19.07.2020. He was dismissed on account of his implication in an offence punishable under Section 18 of the NDPS Act.

6. This Court vide order dated 13.01.2020 had opined that upon setting aside of dismissal order, petitioner would be reinstated, however, upon reinstatement he would not be entitled to consequential service benefits of seniority, arrears of pay etc. for the period he remained out of job. Neither petitioner nor respondent assailed said order. Meaning thereby, order dated 13.01.2020 has attained finality. The respondent, relying upon Rule 7.3(2) and (3) of the Punjab Civil Services Rules, has released salary for the period, the petitioner remained out of service. It is apt to notice that petitioner has remained out of service from May, 2006 to July, 2020. The respondent did not avail his service for a long period of 14 years still he has been granted backwages.

7. On reinstatement, it is not necessary that 100% backwages should be granted. This Court had categorically held while setting aside order of dismissal and appellate order that petitioner would not be entitled to consequential benefits. The respondent as per its wisdom has released backwages of 14 years. This Court cannot ignore its earlier order. Though respondent as per its understanding has released 100% backwages, yet, the petitioner by way of orders of this Court cannot be granted interest.

8. Dismissed.

05.08.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No