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

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Date of Decision :16.05.2024

Ishwar Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jitender K. Sehrawat, Advocate for the petitioner.

Mr. Pankaj Middha, Addl. A.G. Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance of the petitioner is that the persons junior to the petitioner were promoted to the post of Assistant on 11.04.2013 but the petitioner was not granted the benefit of promotion due to the pendency of the FIR No.27 dated 17.01.2012 registered under Sections 379, 420, 468, 471, 120-B of the IPC at Police Station City Yamuna Nagar and after the petitioner was acquitted in the said criminal case, he has been promoted to the said post with retrospective effect but only notionally whereas, after the acquittal of the petitioner, he should have been given arrears from the date of acquittal in the criminal case.

2. Learned counsel for the respondents on the other hand submits that when the juniors employees were promoted, the petitioner could not be



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promoted to the post of Assistant due to the pendency of the FIR but in the said criminal case, as the prosecution failed to prove the petitioner guilty of the said allegations, the petitioner was acquitted by the competent Court of law on 17.01.2018 and, thereafter, he has rightly been granted benefit of promotion to the post Assistant on 22.12.2020 and he has rightly not been granted the actual benefit especially, when even the departmental proceedings, which were pending against him were only dropped on 12.11.2020 (Annexure P/4).

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

4. No doubt, during the pendency of the criminal/departmental proceedings, the petitioner could not have been promoted to the said post. It has also come on record that the petitioner was acquitted in the criminal case by the competent Court of law on 17.01.2018. As per the judgment of the Hon'ble Supreme Court of India in **Civil Appeal No.3339-2019 titled as Raj Narain vs. Union of India and others, decided on 01.04.2019,** an employee who has been acquitted becomes entitled for the benefit but only from the date of acquittal and not prior to that. Keeping in view the said proposition of law, the petitioner became entitled for the grant of benefit of promotion on the post of Assistant on 17.01.2018 when he was acquitted in the criminal case but the said benefit was not granted to him due to the pendency of the departmental enquiry, which was only dropped on 12.11.2020. Once, the respondents failed to prove the allegations alleged against the petitioner in the departmental enquiry and the criminal



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proceedings had already come to an end on 17.01.2018, keeping in view the judgment of the Hon'ble Supreme Court of India in **Raj Narain (supra)**, the petitioner became entitled for the benefit of promotion to the said post immediately upon his acquittal in the criminal case. Merely that the charge sheet was kept pending for a period of 02 years after the acquittal, the same will not cause prejudice to the claim of the petitioner for promotion. Hence, the present petition is allowed. Impugned order dated 22.12.2020 (Annexure P/6) is modified to the extent that though, the petitioner will get notional promotion from the date it has been effected but actual benefit of salary along with arrears will be admissible to the petitioner from the date he was acquitted by the competent Court of law i.e. on 17.01.2018 onwards.

Let the respondents compute the arrears for which, the petitioner becomes entitled under this order and release the same within a period of 08 weeks from the date of receipt of copy of this order.

Present petition is allowed in above terms.

Civil miscellaneous application pending, if any, is also disposed of.

May 16, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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