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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-7482-2015 (O&M)
Date of Decision:29.01.2024.

JAMAL MASIH*Petitioner*
STATE OF PUNJAB AND OTHERS*Respondents*
V/s.

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Raj Kaushik, Advocate for the petitioner.
Mr. Charanpreet Singh, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioner by way of this Writ Petition has assailed the order dated 11.07.2014 (Annexure P-11) whereby the suspension period spent by him has been treated as a leave of kind due although he was acquitted in the criminal case registered against him for the alleged embezzlement of ₹90/-.

2. It is submitted that against the order dated 07.02.2006 passed by the Director, State Transport, Punjab, vide which the benefit of suspension period has not been granted to the petitioner, he had preferred an Appeal before the Secretary, who had refused to grant suspension allowance for the period. While deciding the Appeal, the Secretary has although observed that the petitioner has been acquitted, however, the said acquittal was by giving him benefit of doubt and therefore, it is directed to count the period of suspension as leave of any kind due.

3. Learned counsel for the petitioner submits that the action of the respondents is unjustified. Once the petitioner has been acquitted in terms of

Rule 7.3 (B) (3) of the Punjab Civil Services Rules, (Vol.1 Part 1), the petitioner was entitled to the full allowances during the suspension period.

“Rule 7.3 (B) (3)

Where the authority competent to order re-instatement is of opinion that the suspension was wholly unjustified, the Government employee shall, subject to the provisions of sub-rule (8), be paid the full pay and allowances to which he would have been entitled, had he not been suspended:

Provided that where such authority is of opinion that the termination of the proceedings instituted against the Government employee, had been delayed due to reasons directly attributable to the Government employee, it may, after giving him an opportunity to make his representation and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Government employee shall be paid for the period of such delay only such amount (not being the whole) of such pay and allowances as it may determine.”

4. In **Union of India and Others** Vs. **Jaipal Singh**; (2004) 1 Supreme Court Cases 121, the Supreme Court also considered the earlier judgment passed in **Ranchhodji Chaturji Thakore** Vs. **Supdt. Engineer, Gujarat Electricity Board**; (1996) 11 SCC 603, and held that if prosecution, which ultimately resulted in a person concerned, was at the behest or by the Department itself, the consideration for back wages would arise. Thus, examining the matter from all the angles, since it was the Department who had initiated the case for embezzlement against the petitioner and the petitioner was acquitted, he would be entitled to complete benefits.

5. In view of the above, the Writ Petition is **allowed**. The amount with regard to the benefits shall be calculated and released to the wife of the petitioner as it was informed that the petitioner has expired.

6. All pending applications in this Writ Petition stand disposed of accordingly.

January 29, 2024
Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

Whether speaking / reasoned	:	Yes	/	No
Whether Reportable	:	Yes	/	No