



CWP-665-2017 (O&M) & -1-
CWP-3384-2019 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

310+237

CWP-665-2017 (O&M)
Date of Decision :19.11.2024

Satpal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CWP-3384-2019 (O&M)

Rajinderpal Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jatinderpal Singh, Advocate for the petitioner
in CWP-665-2017.

Mr. Tahaf Bains, Advocate for the petitioner
in CWP-3384-2019.

Ms. Shruti, AAG, Haryana

* * *

Harsimran Singh Sethi, J. (Oral)

In CWP-665-2017, the grievance being raised by the petitioner
is qua the order dated 15.10.2015 (Annexure P/7) by which, the suspension
period of the petitioner has been treated as non-duty period for all intent and



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purposes including the payment of full salary.

At the outset, learned counsel for the petitioner submits that the petitioner is not raising claim for the release of full salary for the suspension period but once, an FIR on the basis of which the petitioner was suspended, has already been quashed though, on compromise, the suspension period is to be treated as duty period for all other intent and purposes

Learned counsel for the respondent-State submits that once the petitioner was arrested and that too on the basis of an FIR registered by the third party of which, the department has no role of play and the petitioner remained in custody for more than 48 hours and the petitioner was suspended therefore, merely that the FIR has been quashed on the basis of the compromise, even in that case no benefit of the suspension period can be given to the petitioner including the salary or can even be treated as a duty period and hence, the writ petition is liable to be dismissed.

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

Keeping in view the rules governing the service, according to which, an employee who remains under custody for more than 48 hours is automatically suspended, thereby the suspension order passed by the respondent-department against the petitioner as he remained behind the bars for more than 48 hours with respect to No.170 dated 07.09.2013 registered under Sections 498-A, 406 & 323 of the IPC at Police Station Kotkapura, District Faridkot cannot be treated as unjustified or contrary to the rules governing the service.

The question which arises now is whether after the FIR has



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been quashed on the basis of a compromise, whether the petitioner is entitled for the salary for the suspension period as well as the same is to be treated as duty period or not.

Learned counsel for the petitioner has already given up the claim qua the grant of full salary for the suspension period hence, the only adjudication required to be undertaken is whether the said suspension period is to be taken as duty period for all other intent and purposes or not.

The benefit of treating the suspension period as a duty period can only be declined in case an employee is held guilty of the allegations which are alleged against him/her.

In the present case, though an FIR was registered against the petitioner but before even the charges could be framed, a compromise was effected and the FIR was quashed hence, under these circumstances, no adverse report has come against the petitioner so far so as to treat even the suspension period as a non-duty period.

Keeping in view the said fact, the respondents are under an obligation to treat the said period as a duty period for all other intent and purposes including the grant of increment and to be treated as a qualifying service except the payment of full salary for the period in question, which claim has already been waived of by the petitioner.

Keeping in view the above, order dated 15.10.2015 (Annexure P/7) is set aside with the above said directions.

Qua the CWP-3384-2019, the facts are also somewhat identical as the petitioner therein was also facing criminal proceedings in respect of FIR No.100 dated 14.10.1998 registered under Sections 304-B and 34 of the



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IPC at Police Station Mehna, District Moga and was consequently suspended vide order dated 24.12.1998 (Annexure P/1). Though, the petitioner was convicted in the said proceeding vide order dated 22.08.2003 passed by the Court of learned Additional and Sessions Judge, Faridkot but the respondents never took any action against the petitioner till order dated 12.09.2016 (Annexure P/3) was passed on the basis of the said conviction wherein, the respondent-department dismissed the petitioner from service from retrospective effect i.e. 22.08.2003 and the petitioner continued under suspension from the date of suspension i.e. 24.12.1998 till the date of dismissal from service i.e. 12.09.2016.

The petitioner-Rajinderpal Singh had filed an appeal against the judgment of conviction and he was acquitted in appeal vide order dated 08.03.2017 (Annexure P/4) and consequently he was reinstated in service vide order dated 20.09.2017 (Annexure P/5) and ultimately retired from service on 30.09.2022.

The grievance of the petitioner is that though, he is not claiming the salary for the period in question i.e. when he remained under suspension or out of service but the total length of service from the date of appointment till superannuation needs to be taken into account as a qualifying service for computing his pensionary benefits.

No cogent reason has come forward to deny the said benefit. Once, the petitioner was suspended due to registration of an FIR and was dismissed from service on account of his conviction in the said criminal proceedings vide order dated 22.08.2003 but the petitioner has been acquitted in an appeal on 08.03.2017 (Annexure P/4) and he was also



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reinstated in service, accordingly, the benefit of total length of service starting from 26.04.1997 till the date of retirement from service cannot be taken away on any account. Though, the actual financial benefits will not be given to the petitioner for the period he remained under suspension or out of service but the total length of service is to be taken into account by fixing the salary of the petitioner notionally even for the period for which he remained under suspension or he remained out of service.

Let the respondents calculate the total qualifying service for computing the pensionary benefits on length of service of the petitioner keeping in view the direction given by this Court in the present order, the pensionary benefits be made admissible to him on the basis of the qualifying service which will be computed keeping in view the direction given hereinbefore and be paid to the petitioner.

Let the present order be complied with within a period of 08 weeks from the date of receipt of copy of this order.

Present petitions are disposed of in above terms.

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

A photocopy of this order be placed on the file of connected case.

November 19, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No