



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CWP-23424-2021 (O&M)

Decided on :17.05.2024

ARUN KUMAR

. .petitioner

Versus

STATE OF HARYANA AND OTHERS

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Jayant Yadav, Advocate for
Mr. P. R. Yadav, Advocate for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that vide impugned order dated 11.06.2020 (Annexure P-8), the suspension period of the petitioner has not been treated as a duty period which is causing prejudice to the petitioner as the said suspension period will be taken into account while computing the pensionary benefits of the petitioner.

2. Learned counsel for the petitioner submits that the petitioner was suspended by the department on 08.05.2015 on account of registration of a criminal case and thereafter, the petitioner was arrested in FIR No. 21 dated 08.05.2015 under Section 7/13 of the Prevention of Corruption Act at Police Station State Vigilance Bureau, Gurgaon. But ultimately, the department declined to give sanction to prosecute as the allegations alleged against the petitioner were frivolous and no charges were framed against the petitioner and the petitioner ultimately was reinstated in service on 10.11.2017 (Annexure P-3) and at that time, the departmental proceedings were pending against him.



3. Learned counsel for the petitioner further argues that on 22.02.2019 (Annexue P-5), a charge-sheet was served upon the petitioner on the same allegations but the said charge-sheet was dropped and the petitioner was warned by the authority concerned to remain careful in future.

4. Learned counsel for the petitioner further argues that non treating the suspension period of the petitioner as duty period will cause prejudice to the petitioner as the said suspension period will be taken into account while computing the qualifying service of the petitioner for the grant of pensionary benefits.

5. Learned counsel for the petitioner submits that as not even a minor punishment has been imposed upon the petitioner, hence, the petitioner is rightly claiming the suspension period to be treated as duty period which has been declined to him by the concerned department by the impugned order dated 11.06.2020 (Annexure P-8) and respondents be directed to release the salary of the petitioner for the period he remained suspended from the service.

6. Learned counsel for the respondents on the other hand submits that the petitioner was warned to remain careful in future hence, it cannot be said that the petitioner was exonerated of the allegations alleged against him. Learned counsel for the respondents further submits that it is within the jurisdiction of the department to decide as to whether the suspension period of the petitioner will be treated as duty period or not, hence, the non-grant of benefit of suspension period to the petitioner is perfectly valid and legal.

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



8. It is a settled principle of law that in case, in a disciplinary proceedings any employee is held guilty, he/she can be denied the benefit of salary of the period of his/her suspension. Once the allegations alleged have been dropped against an employee and the employee has been exonerated of the said allegations then the employee becomes entitled for the full benefits for the period of his/her suspension.

9. In the present case, the petitioner was suspended after he was arrested against the registration of the FIR No. 21 dated 08.05.2015. The Government consider the said fact and decline the sanction to prosecute which means that the Government conceded that the petitioner is innocent qua the allegations being alleged against him in the FIR No. 21 dated 08.05.2015 that is why he was reinstated in service on 10.11.2017 (Annexure P-3). Even in the departmental proceedings initiated against the petitioner, the charge sheet against the petitioner has been dropped but while dropping the charges, the petitioner was warned by the department to remain careful in future. The direction of authority concerned to the petitioner to remain careful in future does not mean that the petitioner has been held guilty of the allegations alleged against him and it is only the opinion of the authority concerned rendered to the petitioner. Once, the charges levelled against the petitioner have been dropped in the departmental proceedings, it has to be presumed that the charges have not been proved against the petitioner.

10. Once, the petitioner has not been held guilty in the criminal proceedings and in the departmental proceedings he has already been exonerated keeping in view the rules governing the service, the petitioner is entitled for the grant of full salary for the period he remained on suspension.

The general rule 89 of the **Haryana Civil Services (General) Rules, 2016** is



very clear in this regard. In the present case, it can be submitted that as the petitioner was exonerated of the allegations alleged in the criminal proceedings as well as in the departmental proceedings, the suspension of the petitioner from service was wholly unjustified, hence, the petitioner is entitled for the full salary for the suspension period and the said suspension period of the petitioner should be treated as duty period for all intents and purposes.

11. The arguments of the learned State counsel that the petitioner was warned by the department to remain careful in future means that he has been punished by the authority concerned. Merely, any observation of the punishing authority does not mean that the employee has been punished, the total facts are to be seen which include the fact that the charge sheet has been dropped against the employee. Once, the charge-sheet has been dropped in the departmental proceedings, it cannot be said that the charges have been proved against the said employee. Once, the charges are not proved against the employee, the employee is deemed to be exonerated from all charges alleged against him. Once, the employee has been exonerated of the said allegations keeping in view the provisions of Rule 89 of the 2016 Rules, the employee becomes entitled for the grant of full benefit of his suspension period.

12. Keeping in view the above facts and circumstances recorded herein above, **the impugned order dated 11.06.2020 (Annexure P-8) is hereby set-aside and accordingly, the suspension period of the petitioner be treated as duty period for all intents and purposes.** The respondents are directed to pay the salary of the petitioner for the period he remained suspended from service after deducting the subsistence allowance already paid to the petitioner within the period of eight weeks from the date of



receipt of copy of this order.

13.. The present petition is allowed in above terms.

14. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

17.05.2024

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No