

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

CWP-14059-2022 (O&M)
Date of decision:01.08.2024

Mehar Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Surinder Singh, Advocate for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana.

AMAN CHAUDHARY. J

1. As it emerges, the petitioner, who was working as Inspector, Co-operative Societies, Bilaspur, was suspended on account of registration of an FIR against him and other members of Co-operative Societies on a complaint filed by Assistant Registrar, Co-operative Societies, Ambala, followed by other FIRs lodged by private members of the Navyug Co-operative Society, wherein he was acquitted.

2. Notably, the period of suspension w.e.f. 26.10.2008 till 29.06.2010 was accordingly, treated to be on duty, vide order dated 30.07.2019, *albeit* without any monetary benefits, except subsistence allowance, which was later increased from 50% to 75%.

3. To proceed further in the matter, it would be apposite to make a reference to Rules 7.3 and 7.5 Punjab Civil Services Rules, Vol. I, Part I, as applicable to the State of Haryana, in regard to the award of full salary during the period of suspension, relevant portion whereof reads thus:

“ALLOWANCES ON REINSTATEMENT

7.3 (1) When a Government employee, who has been dismissed, removed, compulsory retired, or suspended, is reinstated, or would have been reinstated but for his retirement on superannuation the authority competent to order the reinstatement shall consider and make a specific order:-

(a) regarding the pay and allowances to be paid to the Government employee for the period of his absence from duty, occasioned by suspension and/or dismissal, removal or compulsory retirement ending with his reinstatement on or the date of his retirement on superannuation as the case may be, and

(b) whether or not the said period shall be treated as a period spent on duty.

(2) Where the authority mentioned in sub-rule (1) is of opinion that the Government employee has been fully exonerated or, in the case of suspension, that it was wholly unjustified, the Government employee shall be given the full pay and allowances to which he would have been entitled, had he not been dismissed, removed, compulsorily retired or suspended, as the case may be.

(3) In other cases, the Government employee shall be given such proportion of such pay and allowances as such competent authority may prescribe:

Provided that the payment of allowances under sub-rule (2) or sub- rule (3) shall be subject to all other conditions under which such allowances are admissible. Provided further that such proportion of such pay and allowances shall not be less than the subsistence and other allowances admissible under rule 7.2.

(4) In a case falling under sub-rule (2) the period of absence from duty shall not be treated as a period spent on duty for all purposes.

(5) In a case falling under sub-rule (3) the period of absence from duty shall not be treated as a period spent on duty unless such competent authority specifically directs that it shall be so treated for any specified purpose:

Provided that if the Government employee so desires, such authority may direct that the period of absence from duty shall be converted into leave of any kind due and admissible to the Government employee.

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SUSPENSION DURING PENDENCY OF CRIMINAL PROCEEDINGS, OR PROCEEDINGS FOR ARREST

FOR DEBT, OR DURING DETENTION UNDER A
LAW PROVIDING FOR PREVENTIVE DETENTION

7.5. An employee of Government against whom proceeding have been taken either for his arrest for debt or on a criminal charge or who detained under any law providing for preventive detention should be considered as under suspension for any periods during which he is detained in custody or is undergoing imprisonment, and not allowed to draw any pay and allowances (other than any subsistence allowance that may be granted in accordance with the principles laid down in rule 7.2) for such period until the final termination of the proceedings taken against him or until he is released from detention and allowed to rejoin duty, as the case may be. An adjustment of his allowances for such periods should thereafter be made according to the circumstances of the case, the full amount being given only in the event of the officer being acquitted of blame or (if the proceedings taken against him were for his arrest for debt), of its being proved that the officer's liability arose from circumstances beyond his control or the detention being held by the competent authority to be unjustified."

4. The aforesaid Rules have been the subject matter in the case of **Hukam Singh vs. State of Haryana**¹, wherein the Division Bench while considering the scope of Rule 7.5 *ibid*, ultimately held the petitioner therein, who was acquitted for offenses under Sections 302, 307, and 324, read with Section 34 of the IPC by Hon'ble the Supreme Court, entitled to full salary and allowances for the period of his suspension and dismissal. Following the foregoing dictum, this Court in **Ram Anjore vs. Uttari Haryana Bijli Vitran Nigam Limited through its Managing Director**², observed that once an employee is absolved of charges levied, he is entitled to complete salary in light of the aforementioned Rules. The petitioner therein was suspended pursuant to his involvement in an offence under Sections 7 and 13 of the

¹ 2001(1) RSJ 201.

² 2016(2) S.C.T. 716.

Prevention of Corruption Act, 1988, though he stood acquitted by the appellate Court, finding the charges against him unjustified.

5. The focal point articulated herein stands reiterated in a myriad of judgments, such as **Ishwar Singh vs. State of Haryana**³; **Jagmohan Lal vs. State of Punjab**⁴; **Surjit Singh vs. State of Haryana and another**⁵ and **Baldev Singh vs. State of Haryana**⁶, wherein while deciding similar issues, the Courts have recurrently ruled that employees acquitted of charges are generally entitled to full salary for the period of their suspension or wrongful dismissal, underscoring a commitment to socio-economic justice and fairness.

6. In **Brahma Chandra Gupta vs. Union of India**⁷, a case similar to the one at hand, wherein the appellant was acquitted of the criminal charges under Sections 19(F) of the Indian Arms Act and 5 of the Indian Explosives Substances Act and also no disciplinary proceedings were ever initiated against him, Hon'ble the Supreme Court observed and held that, "...The appellant was a permanent UDC who has already retired on superannuation and must receive a measure of socio-economic justice. Keeping in view the facts of the case that the appellant was never hauled up for departmental enquiry, that he was prosecuted and has been ultimately acquitted, and on being acquitted he was reinstated and was paid full salary for the period commencing from his acquittal, and further that even for the period in question the concerned authority has not held that the suspension was wholly justified because three-fourth of the salary is ordered to be paid, we are of the opinion that the approach of the trial court was correct and unassailable. The learned Trial Judge on appreciation of facts found that this is a case in which

³ 2012 (2) SCT 209.

⁴ 1967 AIR (P&H) 422.

⁵ CWP-1326-2013, decided on 30.04.15.

⁶ 2013(1) RSJ 43.

⁷ 1984 (2) SCC 433.

full amount of salary should have been paid to the appellant on his reinstatement for the entire period. We accept that as the correct approach...”

7. Significantly even in the case in hand, no departmental enquiry was conducted against the petitioner, who was acquitted of the charges by the trial Court itself, observing prosecution evidence to be unreliable and in any case inadequate to establish the charges levelled, against which the appeal preferred by the State also stood dismissed qua him, as he was found to be not a member of the society, while others were let off on probation. The principles of judicial comity require that, for all intents and purposes once honourably discharged of criminal liability, denial of service benefits for suspension period would be a travesty of justice, particularly when it was treated to be duty period. In essence, once the individual is cleared of any wrongdoing, it is imperative that they are made whole in terms of grant of benefits.

8. On a holistic consideration of the facts and circumstances and as a fall out thereof, the order dated 30.07.2019, Annexure P-8, is set-aside to the extent it denies him salary for the period he remained under suspension and consequently so are the orders dated 07.01.2021 and 25.02.2021, Annexures P-12 and P-13, respectively, passed in appeal and revision. The petitioner is held entitled to salary for the period he remained under suspension, alongwith interest @ 6% per annum. Compliance be made within a period of two months from when a certified copy of this judgment is received by the respondents.

(AMAN CHAUDHARY)
JUDGE

01.08.2024
Hemant

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