

2024:PHHC:172403



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

**RSA-6048-2015 (O&M)
DECIDED ON:03.12.2024**

STATE OF HARYANA THROUGH COLLECTOR NARNAUL & ORS.

.....APPELLANTS

VERSUS

RANBIR SINGH

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Baljinder Singh Virk, Advocate
for the appellants.

Mr. Amit Bansal, Advocate for
Mr. Ashutosh Kaushik, Advocate
for the respondent.

SANDEEP MOUDGIL, J

1. The present Regular Second Appeal has been preferred against the judgment dated 31.08.2015 passed by learned District Judge, Kurukshetra vide which the appeal filed against the judgment and decree dated 30.04.2013 passed by Additional Civil Judge (Sr. Division), Kurukshetra whereby, the suit of the plaintiff/respondent has been partly decreed, has been dismissed.

2. The brief facts of the present case is that the plaintiff (now respondent) initiated a suit seeking a declaration and consequential relief in the form of a mandatory injunction. He claims to have commenced employment as a Mechanical Helper on a daily wage basis in 1974, with subsequent

regularization of services effective from May 1984. In 1988, he was promoted to the post of Assistant Blacksmith and later to Blacksmith in December 1993, maintaining a commendable work record throughout. In February 1997, he was wrongfully implicated in a criminal case (FIR No. 101) under Section 307 of the Indian Penal Code at Police Station Rajound. The Sessions Court in Kaithal convicted him, imposing a five-year rigorous imprisonment sentence and a fine of ₹1,000, with an additional three-month imprisonment for non-payment of the fine. Following the suspension of the sentence and subsequent bail, he resumed duties. However, on 16.02.2000, he was dismissed from service. A departmental appeal against this dismissal was rejected by the State Transport Commissioner of Haryana on 09.10.2000. The plaintiff/respondent appealed against the conviction and sentence, which was overturned by this Court on 27.08.2010, resulting in acquittal. He was reinstated on 20.01.2011, with continuity of service for pension purposes; however, claims for benefits during the dismissal period were not granted. The plaintiff asserts entitlement to recognition of service from 16.02.2000, to 20.01.2011, for all purposes including eligibility for the first Assured Career Progression (ACP) scale from December 2003, annual increments, promotions, seniority, full salary for the dismissal period, and adjustment of pay in accordance with the revised pay scale of ₹5,200-20,200 with a grade pay of ₹3,200 w.e.f. 01.01.2006. Despite submitting multiple representations and a legal notice dated 07.06. 2011, the appellants did not respond favorably. Consequently, the plaintiff/respondent has filed this suit seeking declaratory relief along with a mandatory injunction.

3. Mr. Baljinder Singh Virk, Sr. DAG, Haryana appearing on behalf of the appellants has vehemently contended that courts below erred in failing to acknowledge the respondent/plaintiff's conviction under Section 307 IPC, which was adjudicated on 10.12.1999 by the Trial Court. The respondent/plain-

tiff subsequently submitted an application on 04.02.2000, indicating his conviction and subsequent bail granted by this Court on 02.02.2000. Upon reviewing the circumstances surrounding the conviction, it was determined that the respondent/plaintiff's actions constituted moral turpitude, leading to his dismissal from service under order No. 191/ECW dated 16.02.2000, as retaining him in public service was deemed undesirable. In response to his dismissal, the respondent/plaintiff filed an appeal, which was dismissed on 09.10.2000. However, following the successful revision petition in this Court that resulted in his acquittal on 27.08.2010, he was reinstated with continuity of service for pension purposes only, as per order No. 232/ECW dated 20.01.2011. Despite this reinstatement, he was not entitled to back wages for the period he was out of service due to the established legal principle of "*no work, no pay*," as upheld by the Apex Court in the case of "**Ranchhod Chaturji Thakore vs. S.E.Gujrat Electricity Board**" (SLP (C) No. 22538 of 1996).

4. Furthermore, it is argued that both the courts below failed to consider that the respondent/plaintiff's termination was executed under order No. 1191/EWC dated 16.02.2000 due to his conviction in FIR No. 101 dated 18.02.1997 under Section 307 IPC by the learned Sessions Court, Kaithal. The acquittal on appeal on 27.08.2010 and subsequent reinstatement on 20.01.2011 did not negate the fact that he had not performed any work during the intervening period from 16.02.2000 to 20.01.2011; thus, his service continuity was recognized solely for pension purposes while adhering to the *no work, no pay* doctrine that was not duly considered by the courts below in their judgments. Hence, the impugned judgments and decrees are based on conjectures and surmises.

5. Learned counsel for the respondent has contended that there is no illegality of perversity in the impugned judgments and decrees and the respondent/plaintiff is legally entitled to full back wages along-with benefit of continuity of service for the purpose of ACP scale, increments, salary and pension.

6. Heard learned counsel for the respective parties at length.

7. In the present case the facts are not disputed between the parties, therefore, it needs not to be discussed time and again. The questions which arise for adjudication in the present case are that whether the respondent is entitled to treating of the entire period w.e.f. 16.02.2000 to 20.01.2011, as service/duty period for all intents and purposes and whether he is entitled for the grant of ACP scale 1 December, 2003, annual increments, promotion, seniority, full salary /pay for dismissal period and to get his pay fixed in the revised pay scale of Rs.5200-20200/- plus grade pay of Rs.3200/- w.e.f. 01.01.2006.

8. Upon reviewing the records, it is evident that the respondent's dismissal was solely based on a conviction that has since been set aside by the court. Consequently, this reinstatement implies that the respondent is entitled to all benefits that were due prior to the dismissal.

9. According to established legal principles, when a government servant's dismissal is annulled by a court, the intervening period including any suspension prior to dismissal, is treated as duty for all purposes. This means that the individual should receive full pay and allowances for this period as if they had not been dismissed

10. In the case of “***Dhani Ram Vs. UH.B.V.N and another**” 2015(2) **SCT 844**; the services of the petitioner were terminated on the basis of conviction without any notice or inquiry, and without finding that he was not*

suitable due to conviction and the petitioner was subsequently acquitted, the termination order was set aside and the petitioner was held to be entitled to all consequential benefits by treating the intervening period of dismissal and reinstatement as period spent on duty.

11. In the case of *Sukhchain Singh Vs. State of Punjab and another 2014 (2) SLR 139;* the petitioner was dismissed from service on the basis of his conviction without holding any departmental inquiry but the petitioner was subsequently acquitted in the criminal case, it was held that the petitioner was entitled to the grant of the pay and allowances for the period he had remained out of service, especially when the said period is treated as period spent on duty for all purposes.

12. In *Piara Singh Vs. State of Punjab and others 2013 (8) SLR 473* where the petitioner was dismissed from service for involvement in a criminal case but the petitioner was acquitted in the criminal case and also found to be innocent in the departmental enquiry which was initiated against him the petitioner was held to be entitled to arrears of pay and allowances for the period he remained out of service.

13. The judgments cited establish that if an employee is acquitted of criminal charges, it can impact their employment status, particularly if the dismissal was based on those charges. This aligns with established legal principles where departmental proceedings differ from criminal proceedings, which require a higher standard of proof (beyond reasonable doubt) compared to the "preponderance of probabilities" used in departmental inquiries

14. The respondent's case is supported by Rule 7.3 of Part I Chapter VII of the Punjab Civil Services Volume I, which pertains to service period recognition and entitlements following acquittal. The courts below have affirmed that the entire period from 16.02.2000 to 20.01.2011 should be treated

as service for all intents and purposes, including promotions and salary adjustments.

15. The respondent was promoted to Black Smith on 26.11.1993 and is recognized for having completed 10 years of service in 2003 and 20 years in 2013. The appellate court's reliance on the case of **Ramesh Dahiva vs. Uttar Haryana Bijli Vitran Nigam Limited** supports the entitlement to promotions and scales based on cumulative service, reinforcing the decision to grant the first ACP scale effective December 2003.

16. Both lower courts have correctly determined that the respondent is entitled to reinstatement, full salary for the dismissal period, annual increments, and proper pay scale adjustments from 01.01.2006 onwards based on statutory provisions and judicial precedents.

17. This Court does not identify any illegality or perverse reasoning in the impugned judgments and decrees that are being contested. The judgments and decrees issued by the lower courts are well-reasoned and justified. As a result of these findings, the present petition has been dismissed and the findings recorded by both lower courts are upheld.

(SANDEEP MOUDGIL)
JUDGE

03.12.2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No