

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

CWP-28709-2022 (O&M)
Date of decision: 14.08.2024

Rambir Singh, since deceased, represented through LR

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P.K. Goklaney and
Mr. Ashish Goklaney, Advocates for the petitioner.

Mr. Dushyant Saharan, AAG, Haryana.

AMAN CHAUDHARY, J.

1. Prayer made is for payment of full salary and allowances for the period of dismissal, i.e. 16.04.2016 to 10.05.2022, when the petitioner was reinstated.

2. As it emerges, the petitioner, while being appointed as Jail Warder at District Jail, Rohtak, was involved in FIR No.130 registered by Superintendent of Jail, Rohtak under NDPS Act on 17.04.2016 and during the pendency of the criminal case, he, pursuant to an ex-parte departmental inquiry, was dismissed from service on 30.12.2016. Subsequently he was acquitted by the trial Court vide judgment dated 16.02.2018 by observing that, "Therefore, the prosecution has miserably failed to prove its case against beyond every shadow of doubt. Therefore, it is hereby ordered that accused is acquitted of the charges framed against him..."

3. The appeal filed by the petitioner against the order of his dismissal was initially rejected on 03.04.2017, however was remanded to the appellate authority by the order of this Court dated 07.04.2022 passed in CWP-30442-2018. The matter having been reconsidered, he was reinstated

with immediate effect vide order dated 02.05.2022, however was held not entitled to any dues for the period of dismissal, on the principle of 'No Work No Pay'.

4. Before proceeding in the matter, it would be worthwhile to refer to Rules 7.3 and 7.5 Punjab Civil Services Rules, Vol. I, Part I, as applicable to the State of Haryana, which read 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, has 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."

5. Hon'ble the Supreme Court in **Jaipur Vidyut Vitran Nigam Ltd. vs. Nathu Ram**¹, while deliberating the rights of an employee who been acquitted on appeal for offenses under IPC and the Prevention of Corruption Act, 1947, held that when specific provisions stipulate that upon exoneration, employee is entitled to the restoration of both pay and allowances for the period extending from the date of dismissal, such benefits must be duly granted, by observing that, "It is not in dispute that the appellant-Corporation

have themselves given full pay to the respondent from the date of suspension i.e. 30th of November, 1979 to the date of dismissal i.e. 28th of December, 1982 and from the date of acquittal i.e. 15th of December, 1997 to the date of reinstatement i.e. 3rd of June, 1998. Such being the state of affairs, it is not acceptable that there was any reason for the Corporation not to give the suspension allowances for the period of termination i.e. 28th of December, 1982 to the date of acquittal i.e. 15th of December, 1997 in terms of the circular dated 3rd of September, 1975. This circular also says that the period from the date of dismissal to the date of acquittal, the employee should not be allowed pay and allowances less than what would have been admissible to him had he remained under suspension. Therefore, from a reading of the Circular, it would be evident that the respondent may be paid the pay and allowances admissible to him had he remained under suspension. This was the view expressed by the learned Single Judge as well as the Division Bench of the High Court.”

6. In the case of **Manjit Kumar @ Goldi vs. State of Punjab**², the petitioner, a Constable, was dismissed due to pendency of criminal proceedings initiated against him, wherein he stood acquitted in appeal. While discussing the aforementioned provision of Rule 7.3 *ibid*, the importance of due process and the implications of wrongful dismissal were underscored, particularly in cases where an employee is exonerated of criminal charges, this Court thereby observed that, “A bare reading of the provision would make it clear that a Government employee who has been dismissed, removed, compulsorily retired or suspended, is re-instated upon having been fully exonerated, then he shall be given full pay and allowances to which he would have been entitled to had he not been dismissed, removed, compulsorily

retired or suspended as the case may be. In the facts of the present case, once the order of conviction of the petitioner under the provisions of the NDPS Act and Prevention of Corruption Act has been set aside and the petitioner stands completely exonerated, he would be entitled to all benefits as provided for under Rule 7.3 of the Punjab Civil Services Rules. Dismissal from service was only on account of the pendency of the criminal proceedings having been initiated. The said proceeding had been initiated at the behest of the Government itself and were not on the basis of a private complaint. This Court would have no hesitation in holding that in terms of Rule 7.3 of Punjab Civil Services, the petitioner upon being acquitted would be entitled to benefits as provided under the Rules.”

7. This Court in **Maha Singh vs. State of Haryana and another**³, while placing reliance on the judgment of **Jagmohan Lal vs. State of Punjab**⁴, held the petitioner therein, dismissed from service due to pendency of criminal proceedings and later reinstated after being acquitted, entitled to full pay and allowances for the period of suspension.

8. In a similar vein, this Court in a myriad of judgments such as **Krishan Kumar vs. Haryana State Federation of Consumer’s Cooperative Wholesale Stores Ltd. and Another**⁵, **Upkar Singh vs. Municipal Committee, Sunam, District Sangrur**⁶ and **Shiv Kumar Goel vs. State of Haryana and another**⁷, has recurrently elucidated that after acquittal, employees are entitled to full salary for the duration of their suspension or wrongful dismissal.

³ 1994 (1) RSJ 251

⁴ 1967 AIR (P&H) 422

⁵ 1998 (1) AIJ 325

⁶ 2005 (1) SLR 465

⁷ 2007 (1) SCT 739

9. The net legal effect remains that Superintendent of Jail, being the complainant in the FIR, the Department failed to bring home the guilt of the petitioner, on account of which he was honourably acquitted, thus is entitled to restoration of his rightful position so as to receive pay and allowances, as withholding thereof would undermine the very essence of fairness.

10. In sum, on an overall circumspection, the impugned order dated 02.05.2022, Annexure P-15 is hereby set aside to the extent it denies payment of dues for dismissal period. As a sequitur, the respondents are directed to grant the petitioner the pay and allowances, from 16.04.2016 to 10.05.2022 at an interest of 6 % per annum, within a period of two months.

11. Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

14.08.2024
Hemant

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