



CWP No.12772 of 2021

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

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CWP No.12772 of 2021
Date of Decision:06.03.2025

BHOLA SINGH (SEWADAR)

... PETITIONER

VS.

PUNJAB STATE POWER CORPORATION LIMITED AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Mr. P.K. S. Phoolka, Advocate
for the petitioner.

Ms. Kashish Sahni, Advocate
for the respondents.

DEEPINDER SINGH NALWA, J. (ORAL)

1. In the present writ petition, the petitioner has challenged the order dated 18.09.2019 (Annexure P-2) passed by the Senior Executive Engineer Distribution Division Bhagta Bhai Ka whereby the period of dismissal of the petitioner from 05.06.2013 to 23.09.2015 has been treated as period without pay. The petitioner has also challenged the orders dated 17.07.2020 (Annexure P-3) and 21.01.2021 (Annexure P-5) vide which, the appeal filed by the petitioner was dismissed and the case was remanded back



by respondent No.2 to Appellate Authority for consideration and necessary action. The facts of the case are as follows:-

2. The petitioner was appointed on the post of Sewadar in Punjab State Power Corporation Limited (hereinafter referred to 'Corporation'). The petitioner along with one Sh. Karamjit Singh SSA was implicated in case FIR No. 191 dated 27.07.2006 registered under Section 15 of the NDPS Act.

3. The petitioner along with Sh. Karamjit Singh vide judgment dated 05.06.2013 was convicted by the learned Special Court, Sri Muktsar Sahib. They were sentenced to undergo rigorous imprisonment for two months each. On the basis of conviction, the petitioner was dismissed from service vide order dated 05.08.2013. In respect of Sh. Karamjit Singh, he was also dismissed from service vide order dated 13.09.2013.

4. Aggrieved against the orders of conviction, petitioner along with Sh. Karamjit Singh filed an appeal before this Court being Criminal Appeal-S No.2083 of 2013 and vide judgment dated 11.03.2015, the abovesaid appeal was allowed and the judgment dated 05.06.2013 passed by the learned Judge, Special Court, Sri Muktsar Sahib was set aside and the petitioner and Sh. Karamjit Singh were acquitted from the charges framed against them. In pursuance to the abovesaid order of acquittal, the petitioner was reinstated in service on 23.09.2015. After the reinstatement of the petitioner, respondent No.4 passed an order dated 18.09.2019 whereby, the period from 05.06.2013 to 11.03.2015 was treated as "period without pay". Similar order was passed in the case of Sh. Karamjit Singh.



5. The petitioner alongwith Sh. Karamjit Singh submitted representations claiming that as they have been acquitted by the competent Court, therefore, they were entitled to salary for the period they remained out of service on account of dismissal. The representation filed by the petitioner was considered by respondent No.4 and the same was decided vide order dated 18.09.2019 whereby, it was held that the petitioner was not entitled for any pay during the period, he remained out of service on account of dismissal.

6. Aggrieved against the abovesaid order dated 18.09.2019, the petitioner filed an appeal before the Appellate Authority. It is submitted that Sh. Karamjit Singh also filed an appeal. The appeal filed by Sh. Karamjit Singh was accepted on 24.01.2019 (Annexure P-4) and period of dismissal was treated as "leave of kind due".

7. The appeal filed by the petitioner was dismissed vide order dated 17.07.2020.

8. Aggrieved against the abovesaid order, the petitioner filed an application for review of the order passed in the appeal before respondent No.2. Respondent No.2 passed an order dated 21.01.2021, vide which it was ordered that the review application will be heard by the Appellate Authority.

9. The petitioner served a legal notice dated 16.04.2021 (Annexure P-6) wherein, it was prayed that the appeal filed by the petitioner should be decided however no decision was taken on the legal notice served by the petitioner.



10. Aggrieved against the orders dated 18.09.2019, 17.07.2020 and 21.01.2021, the present writ petition has been filed.

11. In the present writ petition, the sole ground to challenge the abovesaid impugned orders is that the case of the present petitioner is similar to the case of Sh. Karamjit Singh. In the case of Sh. Karamjit Singh, the Appellate Authority, vide order dated 24.01.2019 (Annexure P-4) has given the benefit of continuity of service and period of dismissal was treated as “leave of kind due” whereas in case of the petitioner, the abovesaid benefit was declined. It is also the case of the petitioner that once an appeal of Sh. Karamjit Singh was accepted by the respondents, there was no reason to remand the case of the petitioner to the Appellate Authority. The case of the petitioner was that the abovesaid action amounts to discrimination and is violative of Article 14 of Constitution of India.

12. Ms. Kashish Sahni, learned counsel appearing on behalf of respondents submits that there was no fault of the department in respect of initiation of criminal proceeding as such, the principle of ‘no work no pay’, will be applicable and the petitioner will not be entitled for any benefit for the period of dismissal. It is also the case of the respondents that the petitioner cannot take ground of discrimination.

13. I have heard counsel for the parties and have gone through the records of the case. A perusal of the facts of the case would show that the petitioner along with one Sh. Karamjit Singh was implicated in case FIR No.191 dated 27.07.2006 registered under Section 15 of the NDPS Act. It is an admitted fact that the petitioner and Sh. Karamjit Singh were convicted by



the competent Court. On the basis of the abovesaid conviction, the petitioner along with Sh. Karamjit Singh was dismissed from service.

14. Aggrieved against the order of conviction passed in the case of petitioner and Sh. Karamjit Singh, the petitioner along with Sh. Karamjit Singh filed an appeal before this Court which was ultimately allowed and the judgment dated 05.06.2013 passed by learned Judge, Special Court, Sri Muktsar Sahib, was set aside and the petitioner and Sh. Karamjit Singh were acquitted of the charges framed against them.

15. It is also an admitted fact that after the acquittal, the petitioner alongwith Sh. Karamjit Singh, was reinstated in service. However, they were not held entitled for any pay during the period when they remained out of service because of their dismissal.

16. A perusal of the facts of the case would show that the petitioner alongwith Sh. Karamjit Singh filed appeals before the Appellate Authority. In the case of Sh. Karamjit Singh, the period of dismissal was treated as “leave of kind due” and he was granted the benefit of continuity of service. As far as the appeal filed by the petitioner is concerned, the said appeal was dismissed by the competent authority. Taking into consideration that the facts of the case of petitioner were similar to the case of Sh. Karamjit Singh, the petitioner was also entitled to for the same benefit as granted to Sh. Karamjit Singh vide order dated 24.01.2019. The above action of the respondents amounts to discrimination and violates Article 14 of Constitution of India. Once the appeal of Sh. Karamjit Singh was accepted by the respondents, there was no reason to deny the same benefit to the petitioner and also there

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was no reason to remand the case of the petitioner before the Appellate Authority for consideration. It is well settled law that contrary orders cannot be passed by the authority in similar cases which amounts to discrimination.

17. Taking into consideration, the abovesaid facts, it is held that the petitioner is also entitled for the same benefit as granted to Sh. Karamjit Singh vide order dated 24.01.2019.

18. Accordingly, the writ petition is allowed and the impugned orders are quashed with the direction to the respondents to grant the same benefit to the petitioner as granted to Sh. Karamjit Singh vide order dated 24.01.2019. The needful be done within a period of two months from the date of receipt of certified copy of this order.

19. The writ petition is allowed in the above said terms.

20. Pending application(s), if any, also stand(s) disposed of.

(DEEPINDER SINGH NALWA)
JUDGE

March 06, 2025

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Whether speaking : Yes/No

Whether reportable : Yes/No