



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

LPA No.1535 of 2025 (O&M)
Date of Decision: 20.05.2025

State of Haryana and another

...Appellants

Versus

Dr. Het Ram Bishnoi

...Respondent

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Vivek Chauhan, Additional Advocate General, Haryana
for the appellants.

SANJEEV PRAKASH SHARMA, J.(Oral)

CM No.3758-LPA of 2025

For the reasons stated in the application, the same is allowed
and the delay of 133 days in filing the present appeal is condoned.

LPA No.1535 of 2025

1. The challenge in this appeal is to the order dated 02.12.2024 passed by learned Single Judge in ***CWP No.17646 of 2018***, whereby learned Single Judge set-aside the order passed by the respondents-appellants dated 30.03.2018 vide which the State upon conducting fresh proceedings, upheld its earlier order dated 17.11.1999 treating the delinquent official to be removed from service from that date.

2. Learned State counsel for the appellants submits that there was no occasion to set-aside the said order as the State Authorities have merely



complied with the earlier order passed by this Court dated 04.11.2016. Learned State counsel further submits that once the High Court had directed the appellants to conclude the inquiry and the order of dismissal was set-aside but was not to mean automatically reinstatement, and to treat him under suspension, if not retired. The Authorities were well within its rights to restore the earlier order of removal dated 17.11.1999. It is also submitted that the order had been set-aside only on the technical ground as the order had been passed by the Department and no opportunity was given and the writ-petitioner/respondent, therefore, could not be allowed to be treated to have been reinstated.

3. We have considered the submissions. A look at the order dated 30.03.2018 reflects that it actually restores the dismissal order dated 17.11.1999. It is, thus, an order of punishment passed retrospectively. Now, in this regard, it is well settled that any order of punishment cannot be passed retrospectively. The judgments passed by the Supreme Court in *High Court of Punjab & Haryana vs. Amrik Singh, 1995 Supp (1) SCC 321* and *UCO Bank vs. Rajendra Shankar Shukla, 2018(14) SCC 92* have been relied upon by learned Single Judge which do not further require any examination on merits so far as retrospective punishment order is passed. We have also considered the judgment passed earlier on 04.11.2016 by this Court wherein it has been ordered as under:-

“2. Accordingly, this petition is partly allowed. The impugned order of dismissal is set aside but that would not mean automatic reinstatement. The petitioner will be kept on deemed suspension, if already not retired, till the



conclusion of the enquiry which is directed to be disposed of expeditiously, the matter being an old one. The Government to initiate steps to fix time, date and venue in consultation with the petitioner for holding the inquiry from the point mentioned above. To facilitate the process, the petitioner would appear before the 2nd respondent-Director Health Services, Haryana, Panchkula on any working day, as and when called after receipt of certified copy of this order with prior information to him.

3. *This order has been passed without expressing any opinion on the merits of the case.*

4. *Needless to say that in the fresh proceedings the impugned order of dismissal and the evidence, both oral or documentary, gathered after the petitioner was proceeded against ex parte will not influence the future proceedings to be held in accordance with law.”*

4. A look at the afore-said order reflects that learned Single Judge had directed the writ-petitioner to be kept on deemed suspension, if already not retired. Thus, till the date he attained superannuation, he would be treated as under suspension. We are told that the writ-petitioner/respondent had retired on 30.06.2013 and thus, upto 30.06.2013, he could have been treated as under suspension whereafter he would be entitled to receive provisional pension on completion of 33 years of service since the dismissal order dated 17.11.1999 was set-aside by learned Single Judge in the earlier round of proceedings. The writ-petitioner would, however, continue to face the departmental inquiry as has been conducted by the respondents/appellants. After the inquiry was conducted and the delinquent officer was provided with the copy of the inquiry report, it was for the appellants to pass



a fresh order of punishment in accordance with law, i.e in terms of Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016, which governs the cases where a departmental inquiry is continued after retirement. Learned Single Judge, in the impugned order, has already directed the State holding as under:-

“However, the competent authority would be entitled to pass appropriate orders as per the statutory rules which could include withholding, forfeiture or recovery of amount of pension etc. if the rules so provide. The issue is also decided in favour of the petitioner by the Division Bench of this Court in Tarsem Singh’s case (supra) which also supports his claim.”

5. We also notice that the judgment passed by this Court in ***Bahadur Singh vs. State of Punjab, 2013(4) SCT 344*** also lays down the similar law.

6. In view thereto, the order passed by learned Single Judge does not warrant any interference and the present appeal is, accordingly, dismissed.

7. Pending miscellaneous application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

20.05.2025
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No