



CWP-18010-2022

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

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CWP-18010-2022 (O & M)

Date of decision: 22.01.2025

Balbir Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Atul Goyal, Advocate,
for the petitioner.

Ms. Shruti, AAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. The petitioner assails the orders dated 06.06.2019 (Annexure P-4), 13.09.2021 (Annexure P-5) and 10.11.2021 and seeks a directive for the respondents to grant the petitioner full pay and allowances for the suspension period.

2. As it emerges from the petition, the petitioner, while serving as a Clerk, was implicated in FIR No. 6 dated 24.02.2009 under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988, at Police Station Vigilance Bureau, Ludhiana, leading to his suspension. Following his acquittal by the trial Court on 21.01.2014 (Annexure P-1) which was upheld upto Hon'ble the Supreme Court vide order dated 16.03.2018 (Annexure P-3), he was reinstated on 13.09.2021. However, he was denied financial benefits for the period of his absence from service between 19.12.2012 and 05.06.2019, on the grounds of 'no work, no pay.' and that he had been granted the benefit of doubt.



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3. Ascribing to the view that when the charges remain unsubstantiated, the acquittal is deemed unequivocally honorable for all purposes, the Division Bench in **Shashi Kumar vs. Uttri Haryana Bijli Vitran Nigam and another**¹, SLP against which was dismissed on 26.09.2013 wherein, the petitioner who though was acquitted of the charges under Sections 7/13 of the Prevention of Corruption Act, by giving benefit of the doubt, according full back wages upon reinstatement, relevant paras whereof read thus:

"7. In any event, the terms "honourable acquittal" or "fully exonerated" are unknown in the Code of Criminal Procedure or in Criminal Jurisprudence. These terms came up for consideration before a Division Bench of the Madras High Court in the case of Union of India v. Jayaram, AIR 1960 Madras 325. Rajammannar, C.J. delivering the judgment of the Division Bench observed as under :-

"There is no conception like "honourable acquittal" in Criminal Procedure Code. The onus of establishing the guilt of accused is on the prosecution, and if it fails to establish the guilt beyond reasonable doubt, the accused is entitled to be acquitted.

Clause (b) of Article 193 of the Civil Service Regulations which says that when a Government servant who was under suspension is honourably acquitted, he may be given the full salary to which he would have been entitled if he had not been suspended applies only to the case of departmental inquiry.

Where the servant was suspended because there was a criminal prosecution against him, and he was acquitted therein, and reinstated he is entitled under the general law, to the full pay during the period of his suspension. To such a case Article 193(b) does not apply."

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10. Furthermore a Division Bench of this Court, after examining the relevant rules in the case of Hukam Singh (supra) has held as under :-

"It is abundantly clear that Rule 7.3 of the Rules is the general rule, while in case a person is acquitted, it is specific Rule 7.5 of the Rules that would be attracted.

¹ 2005(1) Law Herald 156



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The law is well settled that special Rule will always take precedence over the general rule and consequently, it must follow that under Rule 7.5 of the Rules, referred to above, the petitioner was entitled to the full back wages because, as mentioned above, the earlier decisions referred to above have little application in the present case.

In our this view, we are supported by the judgment of this Court in the case of *Maha Singh v. State of Haryana and another*, 1994(1) SCT 154 (P&H) : 1993(8) Services Law Reporter 188. Same view was expressed by this Court in the case of *Lehna Singh v. The State of Haryana and others*, 1994(1) SCT 173 (P&H) : 1993(3) Recent Services Judgments 119. Keeping in view the aforesaid, we have no hesitation in holding that the impugned order cannot be sustained. In terms of Rule 7.5 of the Rules, on petitioner's being acquitted, he would be entitled to full salary and allowances for the period of suspension and dismissal....."

11. We are of the considered opinion that in view of the settled law the petitioner is clearly entitled to be reinstated in service with all consequential benefits. We quash the impugned order dated 27.8.2003 (Annexure P-4). We direct the respondents to reinstate the petitioner into service with full back-wages. Mr. Agnihotri has argued that the respondents be given opportunity to now conduct a departmental enquiry. We are of the considered opinion that in view of the categorical findings recorded by the High Court, there would be hardly any justification in permitting further departmental action. We, therefore, decline the request made by the counsel for the respondents.

Petition allowed as indicated above. No costs."

4. In **Shiv Kumar Goel vs. State of Haryana**², wherein no challenge has been made, the Division Bench noted that if the charge of corruption under the Prevention of Corruption Act, 1988, was not supported by evidence, the acquittal hinged on the benefit of doubt, would be considered honorable. Additionally, the suspension period was treated as time on duty, entitling the employee to full salary and all associated

² 2007 (1) SCT 739.



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benefits. Further in **Subash Chand vs Punjab State Power Corporation Ltd. and others**³ where the petitioner charged under the same Act was held entitled to salary for the period he remained out of service by treating it as duty for all intents and purposes.

5. Within the contours of a factually congruent scenario, the rationale for denying full salary and treating the suspension period as non duty based on the premise that acquittal was based on the benefit of doubt, was deemed flawed in **Jagmohan Lal vs. State of Punjab**⁴ wherein the petitioner, exonerated in a criminal case of taking illegal gratification, was granted full pay and allowances, as the Court underscored that acquittal absolves an officer of blame and any contrary interpretation of Rule 7.5 Punjab Civil Service Rules, Vol I, Part I would undermine its very purpose. In **Anil Kumar Tyagi vs. Dakshin Haryana Bijli Vitran Nigam Ltd. and another**⁵ which has attained finality upto Hon'ble the Supreme Court, the petitioner was initially terminated following a conviction under Sections 7 and 13 of the Prevention of Corruption Act, 1988, but was later acquitted This Court while relying on Rules 7.3 and 7.5 *ibid*, held him entitled to monetary benefits for the period of suspension once exonerated and acquitted.

6. Invocation of the principle of “No Work, No Pay” is untenable in wake of the decision of the Division Bench in **General Manager Operation Circle, D.H.B.V.N.L, Narnaul vs. Mathura Dass Gupta**⁶ as banked on in CWP No.4465 of 2015 titled as **Ranbir Singh vs.**

³ 2021(1) S.C.T 521

⁴ 1967 AIR (P&H) 422.

⁵ CWP-13988-2015, decided on 24.01.2017 .

⁶ 2012(4) S.C.T 7



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D.H.B.V.N.L and Others decided on 02.03.2016, LPA against which was dismissed holding in harmonious accord therewith, that denial of pay and allowances for the suspension and dismissal period is improper predicated on a conviction under Section 13C of Prevention of Corruption Act followed by acquittal by the appellate court.

7. Upon a conspectus evaluation of the peculiar facts of the case viewed holistically in the backdrop of the legal position as enunciated above, this petition deserves to be and is hereby allowed. Needful be done within a period of 2 months.

22.01.2025
parveen kumar

(AMAN CHAUDHARY)
JUDGE

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