



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

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CWP-25850-2021

Date of decision: 10.02.2025

Ashok Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Harinder Sharma, Advocate
for the petitioner.

Mr. Swapan Shorey, DAG, Punjab.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for quashing the order dated 02.11.2021, Annexure- P-17 passed by respondent No. 2 whereby claim of the petitioner for treating his period of suspension from 10.02.2004 - 19.06.2004 and from 08.11.2004 to 03.08.2005 as duty period and the arrears of full pay and other allowances has been rejected.

2. The petitioner was placed under suspension due to initiation of disciplinary proceedings for major penalty, however minor punishment of stoppage of one increment without cumulative effect had been imposed upon him vide order dated 16.09.2008, Annexure P-2. He claims for the salary and allowances for the suspension period from 10.02.2004 to 19.06.2004. Reference is made to the Instructions dated 26.03.1990, Annexure P-19 and para 23 (iii) of the writ petition, the applicability whereof having been not controverted in the corresponding para of the written statement, the claim deserves acceptance, the relevant portion of which reads thus:-

“2. In the aforesaid situation by taking into consideration the Government of India letter No.11012/15/85-Establishment (E) dated 21.12.185, it has been decided, if the disciplinary proceedings have been initiated against the employee for imposing major punishment and in conclusion minor punishment is imposed when his suspension shall be unjustified and the order



should be passed to pay him the full salary and allowances for the period of suspension.”

3. The petitioner having placed under suspension on account of the fact that he had been implicated in FIR No.79 dated 27.11.2003 registered under Sections 409, 420, 467, 468, 471, 120-B IPC and 13(1)(c), 13(d) read with Section 13(2) of the Prevention of Corruption act 1988, at P.S. Vigilance Bureau, Ludhiana. However, he was acquitted vide judgment dated 28.08.2012 passed by the Special Court, Rupnagar.

4. Insofar as the salary for the period of suspension from 30.11.2004 to 11.08.2005 is concerned, it would be profitable to refer to **Anil Kumar Tyagi vs. Dakshin Haryana Bijli Vitran Nigam Ltd. and another¹**, against which LPA and SLP stand dismissed, wherein while interpreting Rules 7.3 and 7.5 Punjab Civil Services Rules, Vol. I, Part I, the petitioner was held entitled to the monetary benefits consequent to his acquittal for offences under Sections 7 and 13 of the Prevention of Corruption Act, 1988.

5. In **Manjit Kumar @ Goldi vs. State of Punjab²**, wherein the petitioner, a Constable, was dismissed due to pendency of criminal proceedings initiated against him, wherein he stood acquitted in appeal, discussing the 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, it was 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 reinstated 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

¹ CWP-13988-2015, decided on 24.01.2017 .

² 2017 (4) PLR 11



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.”

6. Hon’ble the Supreme Court in **Jaipur Vidyut Vitran Nigam Ltd. vs. Nathu Ram**³, while deliberating the rights of an employee who been acquitted on appeal for offenses under IPC and the Prevention of Corruption Act, 1947, held 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 since full pay had already been provided for both the suspension and post-acquittal periods, withholding suspension allowances for the termination phase lacked justification, further clarifying that an employee must receive no less than the pay admissible during suspension.

7. The underlying legal tenet being that an employee, once acquitted in a criminal proceeding, is entitled to the full restoration of their rights and privileges, for any denial of salary and allowances would not only deepen the wounds of injustice but also erode the very foundation of fairness and equity. The prosecution, having once failed to establish guilt, cannot burden an individual with unproven allegations, by not treating his suspension



period as time spent on duty and such employee be not left adrift, unfairly deprived of what is rightfully theirs.

8. Ex-consequenti, the impugned order dated, 02.11.2021, Annexure- P-17 is hereby set aside to the extent it denies payment of dues. The petitioner be released all the consequential benefits with an interest at the rate of 6 % per annum, within a period of three months.

9. Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

10.02.2025
Hemant

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