



219

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-25519-2024 (O&M)
Date of decision: 19.12.2025

Bhagwan Singh

... Petitioner

Vs.

Punjab State Power Corporation Ltd.

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nikhil Chopra, Advocate
for the petitioner.

Mr. R.D. Gupta, Advocate
for the respondent.

HARPREET SINGH BRAR, J.

1. Present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* seeking quashing of the impugned orders dated 19.01.2024 and 03.05.2024 (Annexures P-3 & P-7 respectively) to the extent, whereby the period from 24.02.2012 to 16.10.2023 has been treated as “non-duty period,” and further for issuance of a writ of in the nature of *mandamus* directing the respondents to treat the aforesaid period as duty period and grant all consequential benefits including pay, increment, seniority and promotion.

2025:PHHC:178051



2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was dismissed from service on 14.03.2012 solely on account of his conviction by learned Sessions Judge, Patiala, vide judgment dated 24.02.2012 for an offence punishable under Section 304 Part II of the Indian Penal Code, 1860. Thereafter, the petitioner preferred an appeal (CRA-S-1033-SB-2012), which was disposed of by this Court vide judgment dated 12.05.2023, whereby while maintaining the conviction, the sentence was modified and the petitioner was ordered to be released on probation under the Probation of Offenders Act, 1958 (for short 'Act of 1958'). In paragraph 22 of the said judgment, it was specifically observed: "Needless to mention that the indicated benefit of probation would not suffer any disqualification as regards the service benefits of the accused/appellant are concerned." It is argued that in view of the said observation and the mandate of Section 12 of the Act of 1958, the petitioner is entitled to continuity of service and all consequential benefits for the period, he was out of service. Reliance in this regard is placed upon the judgments of this Court in ***Balkar Singh Nagra Vs. State of Punjab, 2013(16) SCT 859*** and ***Krishan Dev Vs. State of Haryana, 2003(3) SCT 100***.

3. *Per contra*, learned counsel for the respondent submits that the petitioner was dismissed as per the rules of the department upon conviction. The subsequent release on probation does not amount to acquittal and the period, during which the petitioner did not work, cannot be counted as duty



period. It is submitted that the principle of “no work no pay” applies and the impugned orders treating the period as non-duty are justified.

4. Upon hearing learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner was dismissed solely on the ground of conviction. The conviction, though not set aside, was dealt with under the Act of 1958 and this Court explicitly directed that the benefit of probation would not entail any disqualification regarding service benefits. Section 12 of the Act of 1958 reads as under:

“12. Removal of disqualification attaching to conviction. – Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.”

5. A Coordinate Bench of this Court in **Balkar Singh Nagra**’s case (*supra*), in similar circumstances, where conviction was modified to release on probation, held that Section 12 of the Act of 1958 removes the stigma of conviction and the basis of removal from service stands discharged. The Court directed that the petitioner be considered as having continued in service for the purpose of terminal benefits, applying the principle of ‘no work no pay’ for the intervening period.

6. Similarly, in **Krishan Dev**’s case (*supra*), a Coordinate Bench of this Court, after noting that the offence did not involve moral turpitude and the employee was released on probation, held that the State Government was duty



bound to reinstate the petitioner with continuity of service and all consequential benefits, though back wages were denied.

7. The ratio of the aforesaid judgments squarely applies to the present case. The dismissal of the petitioner was based exclusively on the conviction. Once the conviction was dealt with under the Act of 1958 and this Court expressly protected the petitioner's service benefits from any disqualification, the legal impediment to his service stood removed. The respondents' action in treating the period from 24.02.2012 to 16.10.2023 as "non-duty period" and denying consequential benefits is contrary to the specific direction of this Court in its judgment dated 12.05.2023 and the protective umbrella of Section 12 of the Act of 1958.

8. Consequently, this Court is constrained to hold that the impugned conclusion, on its very face, is not sustainable. A finding that ignores the specific direction of this Court and the statutory mandate is unsustainable in law.

9. In view of the above discussion, the impugned orders dated 19.01.2024 and 03.05.2024 (Annexures P-3 & P-7 respectively) to the extent of treating the period from 24.02.2012 to 16.10.2023 as 'non-duty period' are hereby set aside and the respondents are directed to treat the aforementioned period as duty period for all purposes, including continuity of service, pensionary benefits, seniority, and notional promotions, if otherwise eligible. However, following the principle laid down in ***Balkar Singh Nagra***'s case

2025:PHHC:178051



(*supra*) and ***Krishan Dev***'s case (*supra*), the petitioner shall not be entitled to any back wages for the said period.

10. With the aforesaid observations made and directions issued, present petition is disposed of with no order as to costs.

11. The pending miscellaneous application(s), if any, shall also stand disposed of.

19.12.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No