



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

CWP-22413-2015

Date of decision: 10.02.2026

Surinder Kumar Beri

....Petitioner

Versus

Punjab State Power Corporation Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Padamkant Dwivedi, Advocate and
Ms. Ayushi, Advocate
for the petitioner.

Mr. Vishal Chaudhri, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 12.06.2014 (Annexure P-3). Further, for issuance of a writ in the nature of *mandamus* directing the respondents to treat the out of service period of the petitioner from 17.01.2004 to 30.09.2013 and also to re-fix the salary/retiral benefits to the petitioner and release the arrears forthwith along with interest @ 9% per annum.

2. Learned counsel for the petitioner *inter alia* contends that petitioner joined respondent No.1-Punjab State Electricity Board (now PSPCL), as a Lineman at Ferozepur on 13.10.1978 and was later promoted to the post of Junior Engineer-II. On 09.07.1997, he was arrested by the Vigilance Bureau, Ferozepur Range in a case bearing FIR No.46 under Sections 7 and 13 of the Prevention of Corruption Act. Subsequently, he was convicted by the learned



Special Judge, Ferozepur, on 13.09.2003 and was sentenced to undergo rigorous imprisonment for three years along with a fine of Rs.5000/-. Following his conviction, his services were terminated by the Chief Engineer, Store and Disposal, Patiala, vide order dated 16.01.2004 and he was relieved from service on 02.04.2004 after receiving salary up to 31.03.2004. The petitioner challenged the conviction before this Court by filing Criminal Appeal No.1768-SB of 2003. The appeal was allowed on 14.11.2013 and the judgment of conviction was set aside resulting in the acquittal of the petitioner. He further submits that the petitioner had earlier been suspended on 09.07.1997 after the registration of the criminal case but was later reinstated by the department. During the suspension period, he received only suspension allowance. After his acquittal, the petitioner requested the respondents to grant him all service benefits by treating him as in service from 02.04.2004 and served a legal notice dated 13.02.2014. Thereafter, the respondents cancelled the termination order dated 16.01.2004 and issued an order dated 12.06.2014 retiring the petitioner with effect from 30.09.2013 on attaining the age of superannuation. However, the respondents simultaneously ordered that the petitioner's non-duty period be treated as "leave of kind due". Despite this order, the petitioner was not granted several consequential benefits including proper pay fixation, increments, gratuity, GPF, seniority, leave encashment, promotion, proficiency step-ups, ACP benefits, pensionary benefits and arrears as per the applicable rules.

3. Aggrieved by the denial of these benefits, the petitioner filed CWP No.20054 of 2014 seeking appropriate directions. During the pendency of the writ petition, certain benefits such as arrears of salary, retiral benefits, pension



arrears and interest were released. Consequently, the petition was withdrawn on 20.04.2015 with liberty to the petitioner to submit a representation for the remaining benefits. The petitioner, thereafter, submitted a detailed representation requesting re-fixation of his pay and retiral benefits by treating the suspension and out-of-service period as duty for all intents and purposes and also sought the grant of ACP benefits on completion of 16 and 23 years of service. However, the authorities failed to take a final decision and continued shifting the matter between different offices.

4. It is further contended that the petitioner had already been granted the first ACP benefit on completion of 9 years of service on 31.10.1996 and thus, became entitled to the second and third promotional scales on completion of 16 years (i.e. on 30.10.2002) and 23 years (i.e. on 30.10.2009) of service respectively. These benefits were not granted only because he remained out of service due to the criminal case in which he was ultimately acquitted. Since his dismissal was solely based on the conviction that has now been set aside and no departmental misconduct has been proved against him, there is no justification for treating the out-of-service period as “leave of kind due”. The impugned order dated 12.06.2014, which treats the said period as leave without assigning any reasons, is arbitrary and illegal. Therefore, the entire period during which the petitioner remained out of service should be treated as duty for all intents and purposes including the grant of ACP benefits and other service benefits accrued on completion of 16 and 23 years of service. He further submits that the case of the petitioner is squarely covered by the judgment rendered by this Court in CWP No.21586 of 2015 titled as ***Balkar Singh Vs. The State of Punjab and others*** decided on 03.05.2016.



5. Per contra, learned counsel for the respondent-Corporation submits that the applicable service and retiral benefits due to the petitioner have already been released as discernible from Annexure P-7. It is further submitted that the petitioner was suspended from service on account of the registration of a criminal case against him and was subsequently reinstated in accordance with Regulation 7.3(1) of the Main Service Regulations, 1972. The period during which the petitioner remained out of duty was converted into leave of the kind due in terms of Regulations 7.3(3) and 7.3(5) of the said Regulations, as reflected in Annexure R-1.

6. It is also contended that the petitioner is not entitled to the promotional increments on completion of 16 and 23 years of service, as he failed to achieve the required benchmark/points on the basis of his Annual Confidential Reports for the preceding five years, as discernible from Annexure R-3. Therefore, the petitioner has no *locus standi* to maintain the present writ petition.

7. Having heard learned counsel for the parties and after perusal of the record with their able assistance, it transpires that the petitioner was dismissed from service solely on account of his conviction in the criminal case registered under the Prevention of Corruption Act. However, the said conviction was subsequently set aside by this Court and the petitioner was acquitted of the charges. It is also not in dispute that no departmental or disciplinary proceedings were ever initiated against the petitioner in relation to the allegations forming the basis of the FIR. Thus, the petitioner remained out of service only because of the conviction by the trial Court which has now been set aside. In these circumstances, once the petitioner has been acquitted and no



misconduct has been proved against him in any departmental proceedings, the respondents were not justified in treating the period during which he remained out of service as “leave of kind due”. Because of this decision, the petitioner has been denied the service benefits that he would otherwise have received for that period. The issue involved in the present case is also squarely covered by the judgment rendered in ***Balkar Singh’s case (supra)***, wherein it has been held that in the absence of departmental proceedings, the period during which an employee remained out of service due to criminal proceedings cannot be denied the benefit of being treated as duty for all intents and purposes after acquittal.

8. In view of the discussion above, the present writ petition is allowed. The respondents are directed to grant the petitioner all consequential service benefits by treating the period the petitioner remained out of duty from 17.01.2004 to 30.09.2013 as duty period and to accordingly release the arrears arising therefrom within a period of four weeks from the date of receipt of a certified copy of this order. In case the aforesaid amount is not released within the stipulated period, the petitioner shall be entitled to interest @ of 6% per annum on the delayed payment till its actual realization.

(HARPREET SINGH BRAR)
JUDGE

10.02.2026

Neha

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