

CWP-6876-2017

2026.PHHC.036418



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-6876-2017

Attar Singh

.....Petitioner

VERSUS

State of Punjab and another

.....Respondents

Reserved on: 27.02.2026

Pronounced on: 10.03.2026

Uploaded on: 10.03.2026

Whether only the operative part of the judgment is pronounced? No
Whether full judgment is pronounced? Yes

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Ms. Karina Kalra, Advocate for the petitioner.

Mr. Vikas Arora, DAG, Punjab-State.

Mr. Viney Kumar, Advocate with Mr. Abhav Sharma, Advocate
for respondent No.5.**HARPREET SINGH BRAR, J.**

1. The 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 order dated 30.08.2016 (Annexure P-8) passed by respondent No.2 - Municipal Corporation vide which the period

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of period of suspension of petitioner was ordered to be treated as leave period. A further prayer has been made for issuance of a writ in the nature of *mandamus* directing the respondents to release the entire pay benefits for the suspension period from 06.12.2000 to 14.07.2011, along with interest at the rate of 18% per annum.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was employed as a Clerk (non-provincialised cadre) with the Respondent No.2.-Municipal Corporation. On 06.12.2000, the petitioner was placed under suspension pursuant to the registration of FIR No.90 dated 08.12.2000 under Sections 464/468/471/120-B read with Section 511 of the IPC, Police Station Kotwali, on the allegation that he had connived with a contractor and tampered with official records. The petitioner faced the criminal trial, for which vide judgment dated 12.10.2010 (Annexure P-1), the learned Judicial Magistrate 1st Class, Ludhiana, acquitted the petitioner. The operative part of the acquittal order records that "the prosecution has failed to prove the charges framed against the petitioner beyond shadow of any reasonable doubt" and the petitioner was "acquitted by giving him benefit of doubt due to lack of evidence." Consequent to the acquittal, the petitioner was reinstated in service on 14.07.2011, subject to the final outcome of the pending departmental proceedings.

2.1. Learned counsel further submits that the petitioner was subjected to multiple rounds of departmental inquiries. The first Inquiry Officer, the Superintending Engineer, submitted a report on 16.03.2014 (Annexure P-3) recommending that the inquiry be filed. Thereafter, a show

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cause notice dated 14.07.2015 (Annexure P-4) was issued to the petitioner, proposing that the suspension period be treated as "not on duty." The petitioner submitted a detailed reply dated 20.07.2015 (Annexure P-5). The matter was then marked to the Additional Commissioner (R) for a fresh inquiry, who submitted his report on 24.05.2016 (Annexure P-7), unequivocally recommending that the suspension period be treated as "duty period" for all purposes. Despite the consistent recommendations of the Inquiry Officers exonerating the petitioner, the Commissioner, respondent No.2, passed the impugned order dated 30.08.2016 (Annexure P-8), holding that the petitioner "shall not be paid any wages over and above the subsistence allowance already drawn during the period of suspension," *albeit* directing that for all other purposes, the period shall be treated as duty period.

2.2 Learned counsel for the petitioner submits that the impugned order has been passed in complete disregard to the mandate of Rule 7.3-B of the Punjab Civil Services Rules, Volume I, Part I. He contended that sub-Rule (3) of Rule 7.3-B mandates that where a Government employee has been fully exonerated such that his suspension is held to be "wholly unjustified," he is entitled to full pay and allowances for the suspension period and the said period is to be treated as duty for all purposes under sub-rule (4). Drawing this Court's attention to the factual matrix, learned counsel emphasized that the petitioner was not merely acquitted by the learned trial Court vide judgment dated 12.10.2010 (Annexure P-1) on account of lack of evidence, but was also exonerated in three separate departmental inquiries,

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with the last inquiry report dated 24.05.2016 (Annexure P-7) unequivocally recommending that the suspension period be treated as duty period. He placed reliance on the Division Bench judgment of this Court in ***Shiv Kumar Goel v. State of Haryana, 2007(1) SCT 739*** to submit that an acquittal for "lack of evidence" or "benefit of doubt" is tantamount to an honourable acquittal entitling the employee to all consequential benefits. Further reliance was placed on ***Ranbir Singh v. D.H.B.V.N.L. and others (CWP No. 4465 of 2015)***, decided on 23.09.2016, which was affirmed in ***D.H.B.V.N.L. & Others v. Ranbir Singh, LPA-2169 of 2016***, decided on 16.05.2017, wherein this Court held that upon acquittal, an employee is entitled to full salary for the suspension period and the principle of "no work no pay" has no application to such cases. Learned counsel further submits that the impugned order is a non-speaking order, having been passed without addressing the findings of the inquiry reports or the reply filed by the petitioner, and without recording any satisfaction as to why the suspension was not "wholly unjustified," rendering it liable to be set aside.

3. *Per contra*, learned counsel for respondent No.2- Corporation, raised preliminary objections regarding the maintainability of the writ petition. He contended that the petitioner has not approached this Court with clean hands, as he has misrepresented the facts by stating that the suspension period was treated as "leave period," whereas the impugned order dated 30.08.2016 (Annexure P-8) explicitly treats the said period as "duty period" for all purposes except wages. He further submitted that the petitioner has an alternative efficacious remedy by way of an appeal to the Government under

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Sections 422/423 of the Punjab Municipal Corporation Act, 1976, and thus the writ petition is not maintainable.

3.1 Learned counsel further submits that impugned order has been passed in strict compliance with Rule 7.3-B(3) and in consideration of the law laid down by the Hon'ble Supreme Court in *Union of India and others v. K.V. Jankiraman and others, (1991) 4 SCC 109* and *Greater Hyderabad Municipal Corporation v. M. Prabhakar Rao, 2011(4) SCT 46 : (2011) 8 SCC 155*. He further submits that the petitioner was not "honourably acquitted" but was merely given the benefit of doubt due to the prosecution's failure to prove the case beyond shadow of any reasonable doubt, as recorded in the criminal court's order itself. Relying upon *Prabhakar Rao (supra)*, he submitted that the formation of opinion by the competent authority on the question of whether the suspension was "wholly unjustified" is not to be lightly interfered with by the Courts, and so long as it is a possible view based on the material before him, no interference is warranted. He concluded that the impugned order was passed after obtaining the opinion of the Legal Advisor and after considering the entire case file, and therefore, the writ petition merits dismissal.

4. I have heard the learned Counsel for the parties and perused the records with their able assistance.

5. It transpires that the petitioner was placed under suspension on 16.12.2000 on account of lodging of FIR dated 08.12.2000 and disciplinary proceedings were subsequently initiated. Admittedly the petitioner was acquitted by the Ld.Trial Court vide judgment dated 12.10.2010 (Annexure

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P-1) and was subsequently reinstated in service while his departmental inquiry was still pending on 14.07.2011. Further it is incontrovertible that the departmental inquiry initiated in 2000 culminated for the first time only in the year 2012, resulting in exonerating the petitioner. The petitioner was thrice subjected to departmental inquiry in the years 2012, 2014 and 2016 and on each occasion the petitioner was exonerated by the Inquiry Officer.

6. Conclusively the Ld. Trial Court acquitted the petitioner as the prosecution failed to prove the charges against him beyond reasonable doubt. Further Respondent Department's Superintending Engineer who was the Inquiry officer in 2012 held that no charges levelled against the petitioner were proved. Subsequently, a fresh inquiry was conducted in the year 2014 in which the petitioner was again found not guilty and no financial loss to the corporation was found. Further, in the year 2016 the Additional Commissioner (R), while submitting the inquiry report, not only exonerated the petitioner, but also recommended to treat his suspension period as duty period.

7. As evident from Office Order dated 29.09.2015(Annexure P-6), the Respondent - Corporation was not satisfied with the Inquiry Report dated 16.03.2014 which exonerated the petitioner from the charges levelled against him, and consequently appointed Additional Commissioner (R) as Inquiry officer to submit his report. The main subject of the report of the Additional Commissioner (R) as discernible from Annexure P-7 is Treatment of the period of suspension of the petitioner. The same report not

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only exonerated the petitioner again but also recommended his period of suspension to be treated as on duty.

8. However, the impugned order dated 08.09.2016 passed by the Respondent 2 - Corporation, disregarded the second inquiry report as well and denied petitioner the salary for the period of suspension, without assigning reasons of dissent to the consistent inquiry reports or giving any reason for denial of the same.

9. It is trite law that any decision arrived by any authority must be based on reasons. In terms of the judgement rendered by a Two Judge bench of the Hon'ble Supreme Court in *Ram Phal v. State of Haryana 2009(1) SCC (L&S) 645* it was held:

“6. The duty to give reasons for coming to a decision is of decisive importance which cannot be lawfully disregarded. The giving of the satisfactory reasons is required by the ordinary man's sense of justice and also a healthy discipline for all those who exercise power over others. This Court in Raj Kishore Jha v. State of Bihar and others : (2003) 11 SCC 519 has stated:

19....Reason is the heartbeat of every conclusion. Without the same, it becomes lifeless.”

10. From the sequence of events, it appears that the respondent - Corporation remained dissatisfied with the inquiry reports which had consistently exonerated the petitioner. The record reveals that even after the

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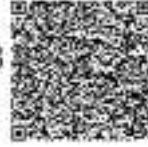
first inquiry report exonerated the petitioner, dissatisfaction was recorded and the matter was again entrusted to the Additional Commissioner (R) for a fresh inquiry. The subsequent report also returned findings in favour of the petitioner and recommended that the period of suspension be treated as duty period.

11. Despite these consistent conclusions, the competent authority proceeded to pass the impugned order denying the petitioner salary for the suspension period, without recording any reasons for disagreeing with the inquiry reports. Such a course of action, in the absence of any cogent justification, reflects arbitrariness and creates a reasonable apprehension that the inquiry process was pursued with a predetermined outcome in mind, particularly when the material on record consistently supported the petitioner.

12. The Hon'ble Apex Court in *S.R. Tewari vs. Union of India*, (2013) 6 SCC 602, dealt with the scope of judicial interference in disciplinary matters and while speaking through Justice B.S Chauhan made the following observations,:

30. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. The finding may also be said to be perverse if it is "against the weight of evidence", or if the finding so outrageously defies logic as to suffer from the vice of irrationality. If a decision is arrived at on the basis of no evidence or thoroughly unreliable evidence and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is

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acceptable and which could be relied upon, the conclusions would not be treated as perverse and the findings would not be interfered with. (Vide Rajinder Kumar Kindra v. Delhi Admn. [(1984) 4 SCC 635 : 1985 SCC (L&S) 131 : AIR 1984 SC 1805] , Kuldeep Singh v. Commr. of Police [(1999) 2 SCC 10 : 1999 SCC (L&S) 429 : AIR 1999 SC 677] , Gamini Bala Koteswara Rao v. State of A.P. [(2009) 10 SCC 636 : (2010) 1 SCC (Cri) 372 : AIR 2010 SC 589] and Babu v. State of Kerala [(2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179] .)

31. Hence, where there is evidence of malpractice, gross irregularity or illegality, interference is permissible. ”

13. The Petitioner was not only acquitted in the FIR No.90 dated 08.12.2000 but was also exonerated in three departmental inquiries. Further, no fault can be fastened on the petitioner for the administrative lapse of the respondent corporation in concluding the inquiry after 10 years. In such circumstances, denial of salary for the said period, particularly when he stands exonerated in both the criminal proceedings and the departmental inquiries, would result in grave injustice. Such action is not only arbitrary but also contrary to the settled principles of natural justice and fairness in administrative decision-making, as it effectively penalises the petitioner despite the absence of any proven misconduct on his part. Permitting such denial would amount to visiting the petitioner with adverse consequences for no fault of his own, which the law does not countenance.

14. In view of the above the writ petition is allowed. The impugned order dated 30.08.2016 (Annexure P-8) is hereby quashed and set aside. The

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suspension of the petitioner from 06.12.2000 to 14.07.2011 is to be treated as “period spent on duty” consequently the petitioner shall be entitled to full pay and allowances for the said period.

15. The respondents are directed to re-fix the pay of the petitioner accordingly and release the entire arrears of pay and allowances for the said suspension period (after adjusting the subsistence allowance already paid), along with an interest @ of 6% per annum within a period of three months from the date of receipt of a certified copy of this order till its actual realization.

16. No order as to costs.

17. Pending miscellaneous application(s), if any, shall also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

March 10, 2026

P.C.

Whether speaking/reasoned. : Yes/No

Whether Reportable : Yes/No