



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

LPA-498-2020 (O&M)

Date of Decision: 22.09.2025

STATE OF HARYANA AND OTHERS ... APPELLANTS

VS.

PHOOL MATI ALIAS PHOOL WATI .. RESPONDENT

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Pankaj Mulwani, Sr. DAG, Haryana.

Mr. R.S.Malik, Advocate,
for the respondent.

ASHWANI KUMAR MISHRA, J. (ORAL)

This appeal arises out of an order passed by the learned Single Judge dated 05.02.2020 in CWP-19659-2018, whereby order dated 20.12.2017, passed by appellant No.3, is modified and the benefit of salary has been allowed to the respondent-petitioner for the period from 27.06.2011 till the date of her reinstatement.

2. Undisputed facts of the case are that while working in the Government High School, Katlupur, Tehsil Kharkhoda, District Sonipat, the respondent-petitioner came to be implicated in an offence under Sections 498-A and 304-B IPC vide FIR No. 178 dated 08.06.2011. The respondent-petitioner was arrested. Since she was in judicial custody during trial, as such, the respondent was dismissed from service on 27.06.2011. The basis of the dismissal order was the implication of the respondent-petitioner in the aforesaid criminal acts. It transpires that ultimately the trial concluded with the acquittal of the writ petitioner vide

order dated 25.09.2013. An application was moved for recalling the order of dismissal on the ground that the writ petitioner has been acquitted. Since no decision was taken, the writ petitioner came before this Court in CWP-4037-2015. This petition was dismissed as withdrawn with liberty to pursue the remedy in appeal. Thereafter, an appeal was preferred which was allowed vide order dated 20.12.2017. By this order, the dismissal of the writ petitioner was set aside and she was held entitled to continuity in service but without any pay on the principle of *no work no pay*. The dismissal order dated 27.06.2011 has been set aside in the appeal. It is this order which came to be challenged before this Court in CWP-19659-2018 which has since been allowed by the learned Single Judge vide judgment dated 05.02.2020.

3. The learned Single Judge held the writ petitioner entitled to salary alongwith arrears within a period of three months from the date of receipt of certified copy of this order.

4. Aggrieved by the aforesaid judgment, State of Haryana has filed the present appeal.

5. It is submitted that the dismissal of the writ petitioner was on account of her implication in a criminal case under Sections 498-A and 304-B IPC. It is urged that the writ petitioner remained in custody and was ultimately acquitted in the year 2013. It is further submitted that the challenge to the order of dismissal was instituted by approaching this Court and pursuant to the orders passed by this Court, the authorities reinstated the respondent-petitioner in service. It is also urged that the denial of salary for the period during which the writ petitioner did not work is in consonance with the principles of *no work no pay* and the learned Single Judge wrongly intervened in the matter so as to grant salary for such period.

6. Learned counsel for the writ petitioner, on the other hand, submits that no proper departmental inquiry was conducted and, in view of the provisions of clause 7.5 of the applicable rules, the writ petitioner was entitled to salary once the acquittal has attained finality.

7. The facts as have been noticed above are not in dispute. It is undisputed that the writ petitioner was incarcerated in jail on account of her implication in the criminal case instituted on account of the unnatural death of her daughter-in-law. She was ultimately acquitted by the trial Court in the year 2013. On a challenge laid to the order of dismissal, the writ petitioner was relegated to the remedy of appeal wherein the dismissal order was set aside. The question that arises for our consideration in facts of this case is as to whether the respondent-petitioner was entitled to salary between 27.06.2011 till 20.12.2017 in view of the principles of *no work no pay*?

8. The service conditions of the writ petitioner are governed by the Punjab Civil Services Rules as applicable to Haryana State (for short 'the Rules'). Rule 7.2 deals with the placement of an employee under suspension and the benefits which are admissible to him. Clause 7.3 is relevant and is reproduced herein:-

“7.3 (1) When a Government employee, who has been dismissed, removed, compulsorily retired or suspended, is reinstated, or would have been reinstated reinstatement shall consider and make a specific order;-

(a) regarding the pay and allowances to be paid to the Government employee for the period of his absence from duty, occasioned by suspension and/or dismissal, removal or compulsory retirement ending with his reinstatement on or the date of his retirement on superannuation as the case may be, and.

(b) Whether or not the said period be treated as a period spent on duty.

(2) Whether the authority mentioned in sub-rule (1) is of opinion that the Government employee has been fully exonerated or, in the case of suspension, that it was wholly unjustified, the Government employee shall be given the full pay and allowances to which he would have been entitled, had he not been dismissed, removed, compulsorily retired or suspended, as the case may be."

9. Reliance is also placed upon clause 7.5 of the Rules which reads as under:-

"7.5 An employee of Government against whom proceeding have been taken either for his arrest for debt or on a criminal charge or who is detained under any law providing for preventive detention should be considered as under suspension for any period during which he is detained in custody or is undergoing imprisonment, and not allowed to draw any pay and allowance (other than any subsistence allowance that may be granted in accordance with the principle laid down in rule 7.2) for such period until the final termination of the proceedings taken against him or until he is released from detention and allowed to rejoin duty, as the case may be. An adjustment of his allowance for such periods should thereafter be made according to the circumstances of the case, the full amount being given only in the event of the officer being acquitted of blame or (if the proceedings taken against him were for his arrest for debt), of its being proved that the officer's liability arose from circumstances beyond his control or the detention being held by name competent authority to be unjustified." (emphasis added)."

10. In the facts of the present case, we find that the misconduct attributed to the writ petitioner was not in respect of any act committed during the course of employment. The offending act was the implication of the writ

petitioner in a criminal case. Undisputedly, the daughter-in-law of the petitioner had died in unnatural circumstances. She remained in jail till she was finally acquitted in the year 2013. It is only in the year 2015 that a grievance was raised by the writ petitioner and pursuant to intervention made by this Court, the Appellate Authority set aside the order dated 27.06.2011. It is not in dispute that during this period, the writ petitioner did not work.

11. The question as to what happens where an employee is reinstated on account of an acquittal order passed by the Criminal Court has been examined by the Supreme Court in *Raj Narain Vs. Union of India and ors, 2019 (2) SCT 582*, wherein the Court has held as under:-

“6. The decision of Ranchhodji Chaturji Thakore (supra) was followed by this Court in Union of India and Others v. Jaipal Singh (supra) to refuse back wages to an employee who was initially convicted for an offence under Section 302 read with Section 34 IPC and later acquitted by the High Court in a criminal appeal. While refusing to grant relief to the Petitioner therein, this Court held that subsequent acquittal would not entitle an employee to seek back wages. However, this Court was of the opinion that if the prosecution is launched at the behest of the department and the employee is acquitted, different considerations may arise. The learned counsel for the Appellant endeavored to distinguish the prosecution launched by the police for involvement of an employee in a criminal case and the criminal proceedings initiated at the behest of the employer. The observation made in the judgment in Union of India and Others v. Jaipal Singh (supra) has to be understood in a manner in which the department would become liable for back wages in the event of a finding that the initiation of the criminal proceedings was mala fide or with vexatious intent. In all other cases, we do not see

any difference between initiation of the criminal proceedings by the department vis-a-vis a criminal case lodged by the police. For example, if an employee is involved in embezzlement of funds or is found indulging in demand and acceptance of illegal gratification, the employer cannot be mulcted with full back wages on the acquittal of the person by a criminal Court, unless it is found that the prosecution is malicious.

(Emphasis supplied by us)

12. In *Union of India and ors vs. Jaipal Singh, 2004 AIR Supreme Court 1005*, the Supreme Court was seized of a matter where the employee was convicted for an offence committed by him in his private life. The conviction was reversed in appeal. The Court, in such circumstances, held the employee entitled to reinstatement but the relief of back wages has not been allowed as the employer cannot be blamed and made liable for the personal conduct of the employee. The Court observed that the matter may be different in case the termination was on the complaint of the employer for any act of misconduct of the employee. To similar effect is the judgment of Supreme Court in *Baldev Singh Vs. Union of India and ors, 2005 (8) SCC 747*.

13. We have examined the facts of the case in the light of the aforesaid judgments and find that the dismissal of the writ petitioner was on account of her implication in the criminal case which was personal to her. The criminal proceedings ultimately resulted in her acquittal by the competent Court on 25.09.2013. Once the criminal proceedings resulted in acquittal, the writ petitioner's prayer for reinstatement was required to have been considered by the employer within a reasonable period.

14. Learned State counsel points out that no request for reinstatement was made by the writ petitioner, before the employer, and for the first time, a writ petition was directly filed before this Court in the year 2015. Learned

Single Judge on 02.05.2017 relegated the respondent to the remedy of appeal. The appeal was preferred soon thereafter an order has been passed by the Appellate Authority on 20.12.2017.

15. In the facts of the case, we are therefore of the view that the right of the petitioner to claim salary would not arise prior to 2015, when the writ petition itself was filed. The writ petition was filed on 04.03.2015. There is nothing on record to show that any claim for reinstatement was made before it. For the period between 27.06.2011 till the writ petitioner filed the earlier CWP-4037-2015, there is no rationale for the writ petitioner to be paid any salary as she actually did not work and her non-working was otherwise not attributed to any act or omission on the part of the employer. The writ petitioner, however, would be entitled to continuity in service alongwith all other benefits except the salary for the period from 2011 to 2015.

16. Learned Single Judge has not adverted to the aspect relating to non-working of the writ petitioner, on account of her implication in the criminal case. The direction to release salary from 2011 onwards, even though she had not worked, cannot find approval from this Court. Accordingly, this appeal of the State succeeds and is allowed. The respondent-writ petitioner is held entitled to continuity of service alongwith all benefits from 27.06.2011 to 20.12.2017. However, she will not be entitled to any salary between 27.06.2011 to 04.03.2015 and to this extent the judgment of learned Single Judge stands modified.

17. All pending applications, if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

22.09.2025

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Whether speaking/reasoned : Yes/No

(ROHIT KAPOOR)

JUDGE

Whether Reportable : Yes/No