



LPA-1409-2025 (O&M)

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

(137)

LPA-1409-2025 (O&M)  
Date of Decision:-28.05.2025.

Harjinder Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH  
HON'BLE MR. JUSTICE ALOK JAIN**

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Argued by:- Mr. R.K. Arora, Advocate for the appellant.

Ms. Arundhati Kulshreshtha, AAG, Punjab.

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**ALOK JAIN, J.**

**CM-3457-LPA-2025**

For the reasons mentioned in the application, the same is allowed and the delay of 95 days in re-filing the appeal stands condoned.

**CM-3456-LPA-2025**

For the reasons mentioned in the application, the same is allowed and the delay of 248 days in filing the appeal stands condoned.

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1. The present appeal has been filed challenging the order dated 14.03.2024, passed by the learned Single Judge to the extent of restricting the entitlement of the appellant to 33% of the back wages along with other



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service benefits.

2. Succinctly, the facts of the case, which led to the filing of the present appeal are that on 23.03.1993 the appellant-writ petitioner was enrolled as a Constable in the Punjab Armed Police. He was deputed in the Security Wing as a Driver. On 28.07.1995, while the appellant was on duty as Driver, his vehicle met with an accident and an FIR No.78 dated 28.07.1995, under Sections 279 and 337 of IPC, 1860 and Section 185 of the Motor Vehicles Act, 1998 came to be registered against him. The appellant was convicted vide judgment dated 04.09.2000 passed by Judicial Magistrate 1st Class, Chandigarh, but on the sentence count, he was ordered to be released on probation under Probation of Offenders Act, 1958. The appellant-writ petitioner filed an appeal before the Appellate Court, which vide order dated 18.03.2005, disposed of the same with the observation that offences under Sections 279 and 337 of IPC, 1860 and Section 185 of the Motor Vehicles Act, 1988 were not the offences involving moral turpitude and extension of benefit under Probation of Offenders Act, would not incur any disqualification to the appellant/accused.

3. During the pendency of the criminal appeal filed by the appellant-writ petitioner, respondent No.4-Commandant, 82 Battalion, PAP, Chandigarh, vide order dated 16.06.2003 (Annexure P-5), dismissed the appellant from service. Aggrieved therefrom, the appellant-writ petitioner preferred an appeal before the Appellate Authority against the order of dismissal and the said appeal came to be dismissed vide order



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dated 22.01.2004 passed by respondent No.2- Inspector General of Police, PAP, Jalandhar Cantt. Further thereto, a mercy-cum-revision petition before Director General of Police, was filed who vide order dated 06.03.2006 dismissed the same.

4. Consequently, the appellant-writ petitioner preferred writ petition before this court seeking quashing of the order of dismissal dated 16.06.2003. The learned Single Judge, allowed the writ petition with the order of reinstatement, but granted the appellant 33% of the back wages from the date of filling of the writ petition.

5. The present appeal has been filed by the appellant with the limited prayer that he should be held entitled to the full back wages instead of 33%.

6. Learned counsel for the appellant has submitted that the appellant had challenged his conviction and the Additional Sessions Judge, vide order dated 18.03.2005, upheld the order of the trial Court and the grant of benefit of probation, wherein it was clearly recorded that the extension of benefit under the Probation of Offenders Act, 1958 would not incur any disqualification to the appellant. It is further submitted that the learned Single Judge, has though allowed the writ petition by setting aside the order of dismissal dated 16.06.2003, and directing his reinstatement in service, yet the fact remains that he has wrongly been held entitled to 33% of the back wages. The learned counsel for the appellant contends that since the offences leading to his conviction and release on probation, did not involve any moral turpitude and there was no fault on the part of the



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appellant, as immediately after his dismissal from service, he had approached this Court by way of a writ petition, therefore, restricting his claim of back wages to 33% is legally untenable.

7. Learned counsel for the appellant further submits that the appellant is only aggrieved by the findings returned by learned Single Judge to the extent of holding the appellant entitled to 33% of back wages without any justification.

8. *Per contra*, learned counsel for the State submits that principle of ‘no work-no pay’ clearly comes into play and admittedly, the appellant has not worked for all these years. Appellant was not granted any interim protection/order and the State cannot be burdened with financial implications to pay a person for not having worked. She further submits that although there is no reasoning given by the learned Single Judge as to how 33% of back wages have been worked out, yet she submits that the appellant cannot be granted the full back wages without even working for a single day for the last 18 years.

9. Heard Learned Counsel for the parties at length and perused the record.

10. The main issue for consideration is whether the judgment passed by the learned Single Judge deserves to be modified and is the appellant entitled to full back wages for the period of non-employment, particularly when, the State contends that the principle of ‘no work-no pay’ applies as the appellant did not work during the relevant period.

11. Adjudicating upon the issue, it is relevant to note that although



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“no work-no pay” is a well-established principle of law and reinstatement does not, *ipso facto*, confer any right to full back wages, but, mere invocation of the same without proper justification is inadequate. Hence, the applicability of the aforesaid principle must be carefully assessed in the light of specific facts and circumstances of each case, as the blanket application would defeat the ends of justice and overlook the individual equities involved.

13. In the present case, the appellant was held guilty under Sections 279/337 of Indian Penal Code, 1860 and under Section 185 of the Motor Vehicle Act, 1998, but while pronouncing on the quantum of sentence, the appellant was released on probation. The relevant extract of the sentence order dated 04.09.2000, passed by Learned Judicial Magistrate First Class, Chandigarh, is reproduced as under:

*“Heard on the quantum of sentence. It is submitted on behalf of the accused that he is first offender and only bread earner of his family and is of young age so lenient view may be taken against him. So, keeping in view of the facts and circumstances of the present case, I deem it a fit case in which benefit of good conduct should be given to the accused. **Accordingly, accused is ordered to be released on probation on his furnishing probation bond in the sum of Rs. 5000/- for a period of six months with one surety in the like amount and undertaking that the accused will keep peace and be of good behaviour during this period and he will attend the course as and when called upon to receive the sentence. Accused also burdened with cost of proceedings of Rs. 200/-. Cost of proceedings paid. Filed be consigned to the record room.**”*

14. The Appellate Court also vide judgment dated 18.03.2005, upheld the conviction part, however, recorded the following finding on the



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appellant's released on probation:

*“The accused/appellant was ordered to be released on probation on his undertaking to be of good behaviour for a period of one year. There is no material whatsoever laid before this court to show that the accused didn't keep good behaviour during that period which has since come to an end and therefore nothing remains to be done on this aspect of the accused. **It is trite that offence under Section 279 and 337 IPC and 185 Motor Vehicle Act are not the offences involving moral turpitude and as such, extension of benefit under the Probation of Offender Act to the accused would not incur any disqualification for the accused/appellant, as far as lawfully permissible. The appeal is found without merit and disorder to be dismissed. Paper be consigned to the record after due compilation.**”*

15. From the above discussion it is evident and crystal clear that the appellant was held guilty under Sections 279 and 337 IPC, 1860 and Section 185 of the Motor Vehicles Act, 1998, but was granted the benefit of probation without any disqualification. The Appellate Court also noted that no misconduct during probation was evidenced. These offences, as judicially acknowledged, are not offences involving moral turpitude, and the intent of probation is rehabilitative and not punitive, as can be seen in the High Court Rules also. Moreover, it was never the stand of the State Counsel that the appellant had been gainfully employed during the time period for which he is claiming the back wages. In these conditions, withholding of back wages would negate the purpose of the Probation of Offenders Act and constitute an indirect punishment which is not justified by law and equity. The appellant is, therefore, entitled to back wages for the duration during which he was prevented from employment. However, it is



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crucial to determine as to what extent, the appellant is entitled to the back wages.

16. It is a well-established principle that reinstatement does not automatically warrant full back wages, especially when the employee has not actually rendered service during the disputed period. However, this principle must be applied with sensitivity to the facts and circumstances of each case. Although, the Hon'ble Apex Court in **The State Bank of India & Ors versus P. Soupramaniane**, AIR 2019 Supreme Court 2187, while considering an appeal by an employer, upheld the order of grant of 25% back wages to the reinstated employee. In the present case, also the learned Single Judge has granted 33% back wages, but at the same time, it cannot be overlooked that the appellant has not rendered services for the last 19 years and the present appeal has been filed after the delay of 248 days. Therefore, awarding full back wages, may not be entirely equitable, particularly when, the appellant did not discharge any actual duties during the intervening period.

18. Considering the facts and the circumstances of the present case, this Court does not find any illegality or perversity in the finding recorded by the learned Single Judge. However, to ensure a balanced approach, considering the hardship faced by the appellant and without overlooking the principle of "no work-no pay" and in order to do justice, we find it appropriate to direct that the appellant shall be entitled to 50% back wages, as he has still 8 years of service to his credit. Ordered accordingly.



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19. Needful be done by the respondents within three months from today and it is further made clear that the appellant would not be entitled to any interest on the aforesaid amount.

**(SUDHIR SINGH)**  
**JUDGE**

**(ALOK JAIN)**  
**JUDGE**

**May 28, 2025.**

*S. Sethi*

Whether speaking/reasoned:- Yes/No  
Whether Reportable:- Yes/No