



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

LPA No. 2050 of 2019(O&M)

Date of Decision: 03.05.2025.

Paramjit Kumar @ Paramjit Singh

.....Appellant

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. R.S.Randhawa, Advocate
Mr. Abhinav Kansal, Advocate
Ms. Tarannum Madan, Advocate
for appellant.

Mr. R.S.Pandher, Sr. DAG., Punjab.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 15.11.2019 only to the extent it is directed that no salary shall be payable to present appellant/writ-petitioner for the period he remained out of service on the principle of 'No Work No Pay'.

2. Brief facts necessary for adjudication of the matter are that FIR No. 128 dated 29.09.2016 was registered against the petitioner under Section 27 NDPS Act. Appellant/writ-petitioner who was serving Punjab Police since October 1991 as Constable, was dismissed from service vide order dated 13.10.2016. His appeal was rejected by Appellate authority on 11.04.2017. FIR No. 128 dated 29.09.2016 was quashed by this High Court on 09.05.2018. His dismissal was subsequently converted to compulsory retirement vide order dated 08.03.2019 passed by Director General of Police, Punjab, Chandigarh. Appellant filed CWP No. 26498 of 2019 for setting

aside the abovesaid orders.

3. Learned Single Bench took note of the fact that FIR in question was quashed by this High Court vide decision dated 09.05.2018 in CRM-M-48902 of 2017. Allegations against the present appellant were based on the disclosure statement of one Mrs. Gurbax Kaur recorded on 02.10.2016. She stated that present appellant was well known to her for the past 05/06 years and they used to talk daily a number of times and that appellant had given her a supply of intoxicant substance and he would take the share of earnings from the sale of intoxicant substances. Appellant, it was stated would consume poppy husk. It was found that the writ petitioner had been illegally detained by one SI Harbans Lal.

4. CWP No. 26498 of 2019 was allowed by learned Single Bench while observing as under:-

“6. The stand taken by the respondent-State does not stand judicial scrutiny of law. Suffice to state not only the statements relied upon in the affidavit are not admissible in law being same were recorded while in police custody. Even otherwise, the said FIR pursuant to which the statements have been recorded cannot be given cognizance as the FIR itself has been quashed by an order dated 09.05.2018 (Annexure P-6), *ibid*, qua the petitioner.

7. On that premise alone, impugned orders dated 13.10.2016, 11.04.2017 and 08.03.2019 Annexures P-3, P-5 and P-9 respectively are set aside and writ petition is allowed.

8. Respondents are directed to take the petitioner back in service. Let the needful be done within a period of 30 days from the date of receipt of a certified copy of this order.

9. It is made clear that petitioner shall be allowed to continuity in service but no salary shall be payable to the petitioner for the period he remained out of service on the principle of "no work no pay".

10. Allowed in the above terms.”

5. Appellant/writ-petitioner is aggrieved of salary not being directed to be paid for the period he remained out of service.

6. Learned counsel for appellant/writ-petitioner vehemently argued that in the present case appellant was more than willing to join duty and he left no stone unturned for taking necessary steps in this respect. It was submitted that present is not a case where appellant remained away from work of his own accord, therefore, appellant is entitled to payment of wages for the period of his illegal termination i.e., from 03.10.2016 to 15.12.2019. It was thus prayed that this appeal be allowed and writ petition filed by appellant/writ-petitioner be allowed in *toto* as prayed for.

7. Learned counsel for the respondent-State refuted the arguments raised on behalf of appellant and submitted that wages for the period in question have been correctly denied because the employer cannot be blamed for registration of FIR and cannot be held liable in any manner. Dismissal of the appeal was sought.

8. We heard learned counsel for the parties and have carefully perused the file.

9. Dismissal of appellant vide order dated 13.10.2016 upon registration of FIR No. 128 dated 29.09.2016 under Section 27 NDPS Act as well as dismissal of his appeal vide order dated 11.04.2017 are a matter of record. It is further a matter of record that subsequent to quashing of the FIR by this High Court on 09.05.2018, dismissal order was converted into one of compulsory retirement vide order dated 08.03.2019. CWP No. 24698 of 2019, filed by appellant was allowed by learned Single Bench and it was directed that appellant/writ-petitioner be reinstated in service.

10. In the given factual matrix, we do not find any merit in the

argument raised on behalf of the appellant that salary for the period he remained out of service has been incorrectly denied. Admittedly, prosecution in question against the appellant/writ-petitioner was not at the behest or by the department itself, therefore denial of wages for said period is justified. Gainful reference can be made to judgment of Hon'ble the Supreme Court in **Union of India and others Vs. Jaipal Singh, 2004 AIR Supreme Court 1005** wherein it was held as under:-

“If prosecution, which ultimately resulted in acquittal of the person concerned was at the behest or by department itself, perhaps different considerations may arise. On the other hand, if as a citizen the employee or a public servant got involved in a criminal case and if after initial conviction by the trial court, he gets acquittal on appeal subsequently, the department cannot in any manner be found fault with for having kept him out of service, since the law obliges, a person convicted of an offence to be so kept out and not to be retained in service. Consequently, the reasons given in the decision relied upon, for the appellants are not only convincing but are in consonance with reasonableness as well. Though exception taken to that part of the order directing re-instatement cannot be sustained and the respondent has to be re-instated, in service, for the reason that the earlier discharge was on account of those criminal proceedings and conviction only, the appellants are well within their rights to deny back wages to the respondent for the period he was not in service. The appellants cannot be made liable to pay for the period for which they could not avail of the services of the respondent. The High Court, in our view, committed a grave error, in allowing back wages also, without advertent to all such relevant aspects and considerations. Consequently, the order of the High Court in so far as it directed payment of back wages are liable to be and is hereby set aside.”

11. Quashing of FIR in question by the High Court by itself is not a sufficient ground to direct release of salary for the period in question. Reliance by learned counsel for appellant/writ-petitioner upon judgment of Hon'ble the Supreme Court in **Union of India Vs. K.V. Jankiraman, 1991**

AIR (Supreme Court) 2010 is not applicable in the given facts and circumstances.

12. Learned counsel for the appellant/writ-petitioner is unable to point out any illegality or infirmity in impugned order dated 15.11.2019, passed by learned Single Bench, which calls for any interference by this Court.

13. No other argument has been raised.

14. Keeping in view the facts and circumstances as above, this appeal is dismissed with no order as to costs. Pending application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(ALOK JAIN)
JUDGE

May03, 2025.
s.khan

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