



IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

LPA-3406-2024 (O&M)

Reserved on : 3<sup>rd</sup> of March, 2025

Date of Decision: 19<sup>th</sup> of March, 2025

**DR. MANOJ KUMAR**

.....Appellant (s)

V/s.

**STATE OF HARYANA AND OTHERS**

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**  
**HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.Bhupinder Malik, Advocate for the appellant.

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**SANJEEV PRAKASH SHARMA, J.**

1. The present LPA assails order dated 20.11.2024 passed by the learned Single Judge in CWP-31170-2024.

2. The brief facts which need to be noticed are that the appellant had earlier approached this Court by filing CWP-1443-2019, challenging the order dated 11.01.2019, whereby he had been relieved from the duty of the post of Extension Lecturer.

3. It was the submission of the appellant therein that after having served in the Indian Air Force, he has joined the Education Department, Haryana in the year 2014 and worked till 01.09.2017 and had, thereafter, joined Government Girls College, Rewari on 23.08.2018 as an Extension Lecturer and his services were dispensed with vide order dated 11.01.2019. An interim order was passed in his favour and he was allowed to rejoin his duties whereafter, he, was again removed from his assignment as Extension Lecturer (Economics) vide order dated 05.08.2019 as an enquiry had been

conducted by the Committee constituted in view of the sexual harassment charges as framed against him.

4. Owing to the allegations levelled against him, the appellant preferred another Writ Petition before this Court, i.e. CWP-24073-2019 and the following order was passed therein on 06.09.2023:-

*“12. In view of the foregoing discussions, the inquiry report, dated 06.03.2019, and termination order, dated 05.08.2019, are set aside. The official respondents are directed to conduct de novo inquiry against the petitioner with regard to the complaint of sexual harassment against him, by following the procedure laid down in the Regulations, conclude the same within the time stipulated therein, i.e., ninety days, and submit its report within ten days thereafter. The aggrieved party in terms of the report and/or recommendations of the Committee shall be afforded thirty days’ time to file appeal against the same by furnishing a copy of the inquiry report. On considering the appeal, if any, the Executive Authority shall take final decision to act or not to act on the report/recommendations of the Committee within thirty days of filing the appeal, and proceed in accordance with law.*

*13. The petitioner’s claim for reinstatement and back wages will be considered by the official respondents in the light of final decision taken by them on the findings/recommendations of the Committee and/or the Appellate Authority in accordance with law, within a period of four weeks from the date of final decision.”*

5. Fresh enquiry report was submitted after giving opportunity of hearing to the appellant and he was exonerated of all the charges. He was

accordingly reinstated on 07.06.2024. By another order dated 11.10.2024, he was denied backwages on the principle of “No Work No Pay”.

6. He again preferred Civil Writ Petition bearing No. CWP-31170-2024 which was dismissed by the learned Single Bench on 20.11.2024. Feeling aggrieved from the said order, the present LPA has been preferred by the appellant.

7. Learned counsel appearing on behalf of the appellant has vehemently argued that once the appellant was reinstated in service and in the enquiry, he has been exonerated, he is entitled for full backwages and the principle of ‘No Work No Pay’ would not be applicable.

8. In support of his submissions, he relies on the judgments of the Division Bench of this Court which are as under:-

- i. **General Manager Operation Circle, Dakshin Haryana Bijli Nigam, Narnaul and Others** Vs. **Mathura Dass Gupta**; 2012 (4) SCT 7;
- ii. **Union Territory of Chandigarh and Others** Vs. **Central Administrative Tribunal, Chandigarh Bench and others**; 2011 (1) SCT 777;
- iii. **Housing Board Haryana** Vs. **Sh. S.B. Kumar, Assistant Engineer and Another**; 2012(3)SCT 613.

9. Learned counsel also relies on the judgment passed by the Hon’ble Supreme Court in the case of **Jaipur Vidyut Vitran Nigam Ltd.** Vs. **Nathu Ram**; (2010) 1 Supreme Court Cases 428.

10. We find that while considering the part relating to the grant of backwages, the Principal Secretary, Higher Education, Haryana has observed as under:-

*“So far as the claim of the petitioner regarding back wages is concerned, it is submitted that the petitioner is not entitled to back wages for the period from 05.08.2019 to 13.06.2024 on the settled principle of ‘No work No pay’”. It is pertinent to mentioned here that the Extension Lecturers are engaged purely against workload and not against sanctioned post, thus, the petitioner is not liable for the back wages, as he has not worked during the period from 05.08.2019 to 13.06.2024. Further, the Extension Lecturers can be relived on two grounds i.e. decrease in workload or on the basis of misconduct and in the present matter there were serious allegations leveled against the petitioner of sexual harassment and harassing female students for undue favour and accordingly, he was relieved from service. Thus, on the principle of ‘No Work No Pay’ the claim of the petitioner for backwages is liable to be rejected”*

11. We find that the order passed by the Principal Secretary, Higher Education Haryana cannot be objected to. Considering the fact that the appellant is engaged as an Extension Lecturer, which is purely based on the requirement of workload, it cannot be said that during the intervening period w.e.f. 05.08.2019 to 13.06.2024, there was full workload available with the respondents. The appointment of the appellant is not against a sanctioned post. Moreover, we find that the earlier termination from service of the appellant was on account of the enquiry proceedings having been conducted against him wherein the complainants had deposed against him,

although he was not given a fair opportunity and, the Court had set aside the order and directed for a *de novo* enquiry. In the *de novo* enquiry, we find that the complainants did not come forward to depose against the appellant and, resultantly, he was exonerated.

12. In view of the above facts, the employer cannot be said to have passed the order of removal erroneously. The removal was based on the report of the enquiry. If the enquiry report has been found vitiated and fresh enquiry was conducted, the employer cannot be said to have committed any mistake in removing the appellant and therefore, the employer cannot be blamed and made liable for the personal conduct of the employee.

13. In **Union of India and Others** Vs. **Jaipal Singh**; 2004 (1) SCC 121, the Apex Court followed the earlier law laid down in **Ranchhodji Chaturji Thakore** Vs. **Superintendent Engineer, Gujarat Electricity Board, Himmatnagar (Gujarat)**; 1996(11) SCC 603 and held as under:-

“4. “XXXX XXXX XXX XXXXXX. 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 it 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 adverting 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.*

14. So far as the judgment of Jaipur Vidyut Vitran Nigam Ltd. Vs. Nathu Ram (Supra) is concerned, we find that there was a circular issued by the Jaipur Vidyut Vitran Nigam Ltd. which prescribed procedure for reinstatement and pay in case of acquittal from the criminal charges. Since the circular allowed backwages, the Supreme Court granted the same in terms of the circular.

15. With respect to the judgements passed by the Division Bench of this Court, we find that facts of each case have to be examined independently. However, in the case of Union Territory of Chandigarh and Others Vs. Central Administrative Tribunal, Chandigarh Bench and others; (Supra), we find that the *ad hoc* Government Employee was directed to be reinstated but back wages were denied. The present case is similar to the case of Union Territory of Chandigarh and Others Vs. Central Administrative Tribunal, Chandigarh Bench and others; (Supra).

16. In view of the discussion hereinabove, we do not find any reason to differ with the view taken by the learned Single Bench in the impugned order. The appeal is found to be without merit and is accordingly **dismissed**.

17. All pending applications in this case are disposed of accordingly.

**[SANJEEV PRAKASH SHARMA]  
JUDGE**

**[MEENAKSHI I. MEHTA]  
JUDGE**

**March 19, 2025**

*Ess Kay*

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>