CNR No: PHHC010315102021
2026:PHHC:185415

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18792-2021 (O&M)

Constable Gurharjinder Singh ...Petitioner

Versus

State of Punjab & others ...Respondents

Sr. No.	***Particulars***	***Details***
1.	*The date when the judgment is reserved*	*24.09.2026*
2.	*The date when the judgment is pronounced*	*06.10.2026*
3.	*The date when the judgment is uploaded on the website*	*06.10.2026*
4.	*Whether only operative part of the judgment is pronounced or full judgment is pronounced*	*Full*
5.	*The delay, if any, of the pronouncement of full judgment, and reasons thereof*	*N.A.*

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Anmol Partap Singh Mann, Advocate,
for the petitioner.

Mr. Siddharth Sandhu, AAG, Punjab.

NAMIT KUMAR, J.

1. The present petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of *certiorari* for quashing the order dated 20.12.2018 (Annexure P-4), passed by respondent No.5, to the extent whereby the period commencing from the date of his dismissal from service i.e. 10.02.2004, till the date of his reinstatement on 20.12.2018, has been treated as 'No Work, No Pay (*Dies Non*)' and denying him pay and allowances, seniority, promotion and other consequential service benefits for the said period. The petitioner also seeks quashing of the order dated 01.05.2020 (Annexure P-6) passed by respondent No.4; order dated 24.07.2020 (Annexure P-7) passed

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by respondent No.3; and order dated 25.11.2020 (Annexure P-8) passed by respondent No.2, whereby his representation, revision and appeal, respectively, preferred against the order dated 20.12.2018 (Annexure P-4), have been rejected.

2. Briefly stated, the facts of the case are that the petitioner was appointed as a Constable on 01.07.1993 and joined the IRB 5th Battalion, Amritsar. It has been pleaded that in the year 2001, the petitioner was involved in FIR No.35 dated 28.02.2001, registered at Police Station Chheharatta, District Amritsar, under Sections 304-B and 34 IPC, as a result of which he was placed under suspension, vide order dated 10.04.2001. The criminal proceedings arising out of the aforesaid FIR culminated in the conviction of the petitioner by the learned Additional Sessions Judge (Fast Track Court), Amritsar, vide judgment of conviction and order of sentence dated 24.09.2003, whereby he was sentenced to undergo imprisonment for a period of 10 years. On the basis of the said conviction, the petitioner was dismissed from service, vide order dated 10.02.2004, under Rule 16.2(2) of the Punjab Police Rules (for short 'PPR'), with effect from the date of his conviction i.e. 24.09.2003. The petitioner challenged the judgment of conviction and order of sentence dated 24.09.2003 by filing an appeal i.e. CRA-S-1916-SB-2003, before this Court.

3. Aggrieved against the order of dismissal dated 10.02.2004, the petitioner preferred an appeal before the Appellate Authority seeking reinstatement, which was rejected vide order dated 18.11.2004 (Annexure P-2).

4. The criminal appeal i.e. CRA-S-1916-SB-2003, was thereafter allowed by this Court vide judgment dated 05.07.2018 (Annexure P-3),

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whereby the petitioner was acquitted of the charges levelled against him and the judgment of conviction and order of sentence were set aside.

5. After his acquittal in the criminal case arising out of FIR No.35 dated 28.02.2001, the petitioner submitted a representation seeking his reinstatement in service. Upon receipt of legal opinion, respondent No.5, vide order dated 20.12.2018 (Annexure P-4), reinstated the petitioner in service with immediate effect. However, the period from the date of his dismissal i.e. 10.02.2004, till the date of his reinstatement i.e. 20.12.2018, was treated as 'No Work, No Pay (*Dies Non*)' on the ground that the petitioner had not performed any duties during the said period.

6. It is pertinent to mention that although the petitioner was reinstated vide order dated 20.12.2018 (Annexure P-4), the competent authority, upon receipt of the legal opinion, also decided that no further departmental action was required to be taken against the petitioner vide order dated 11.01.2019 (Annexure P-5).

7. Thereafter, upon his rejoining, the petitioner submitted a representation seeking that the period commencing from the date of his dismissal from service i.e. 10.02.2004, till the date of his reinstatement on 20.12.2018, be treated as period spent on duty and that consequential monetary and service benefits be granted to him. However, respondent No.4, vide order dated 01.05.2020 (Annexure P-6), rejected the same. Aggrieved against the said order, the petitioner preferred a revision petition, which was also rejected by respondent No.3, vide order dated 24.07.2020 (Annexure P-7). Thereafter, the petitioner preferred an appeal, which too came to be rejected by respondent No.2, vide order dated 25.11.2020 (Annexure P-8). Hence, the present writ petition.

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8. Reply on behalf of the respondents has been filed, wherein the material facts stated in the petition have been admitted. It has been stated that the respondent-Department had no concern with the registration of the criminal case and that on account of petitioner's conviction, he was dismissed from service in terms of Rule 16.2(2) of the Punjab Police Rules. It has also been stated that the respondent-Department was not responsible for his conviction and for the period during which the petitioner remained out of service i.e. from 24.09.2003 to 20.12.2018, and that the said period has rightly been treated as 'No Work, No Pay (*Dies Non*)'. It has further been stated that the petitioner is, therefore, not entitled to arrears of pay, seniority, promotion or any other service benefits for the said period, as the petitioner had not performed any duties during the abovesaid period.

9. Learned counsel for the petitioner submits that the very foundation of the order of dismissal was the conviction of the petitioner in the criminal case arising out of FIR No.35 dated 28.02.2001. He submits that the said conviction was subsequently set aside by this Court and the petitioner was acquitted of the charges levelled against him. Learned counsel, therefore, contends that once the conviction, which constituted the very basis of the petitioner's dismissal, stood set aside, the petitioner could not be deprived of continuity of service and consequential service benefits. He further submits that the petitioner cannot be held responsible for the period during which he remained out of service pursuant to an order of dismissal founded solely on the conviction, which ultimately did not survive.

10. Per contra, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He submits that the respondent-Department had no role in the registration of the criminal case and that the

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petitioner was dismissed from service in terms of Rule 16.2(2) of the PPR on account of his conviction. Learned State counsel further submits that, since the petitioner did not perform any duty during the period in question, the said period has rightly been treated as '*Dies Non'* on the principle of 'No Work, No Pay' and, therefore, the petitioner is not entitled to any monetary or other consequential service benefits for the said period.

11. I have heard learned counsel for the parties and have perused the record.

12. The facts relating to the petitioner's appointment as Constable, registration of the criminal case, his suspension and subsequent dismissal from service on account of his conviction, followed by his acquittal by this Court and reinstatement in service, are not in dispute.

13. The controversy in the present petition, therefore, is confined to the question as to how the period during which the petitioner remained out of service pursuant to the order of dismissal based upon his conviction in the criminal case, is required to be treated after his acquittal.

14. It is not in dispute that the petitioner's dismissal from service was not based upon any independent departmental enquiry or any misconduct established in departmental proceedings, but solely upon his conviction in the criminal case. The said conviction was subsequently set aside by this Court, vide judgment dated 05.07.2018 (Annexure P-3), whereby the petitioner was acquitted of the charges levelled against him. After the acquittal, the competent authority, while passing the order dated 20.12.2018 (Annexure P-4), reinstated the petitioner in service with immediate effect and, upon receipt of legal opinion, also decided that no further departmental action was required to be taken against him.

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15. The respondents have sought to justify the denial of service benefits by contending that the respondent-Department had no role either in the registration of the criminal case or in the conviction of the petitioner and that his dismissal was a necessary consequence of the conviction in terms of Rule 16.2(2) of the PPR. There can be no dispute with the proposition that the respondent-Department cannot be held responsible for the initiation or outcome of the criminal proceedings. However, the said circumstance, by itself, cannot be a ground to treat the period intervening between the petitioner's dismissal and reinstatement as '*Dies Non'*, particularly when the very conviction which constituted the foundation of his dismissal has subsequently been set aside by this Court and the petitioner has been acquitted of the charges.

16. The consequence of the aforesaid acquittal is that the basis on which the petitioner was dismissed from service no longer survives. After the acquittal, the competent authority itself reinstated the petitioner in service and decided that no further departmental action was required to be taken against him. Thus, the period for which the petitioner remained out of service cannot, after his acquittal, be treated as a break in service or as '*Dies Non'* merely on the ground that he had not actually discharged duties during that period.

17. At the same time, the absence of any fault attributable to the respondent-Department is relevant while considering the petitioner's claim for back wages for the period prior to his acquittal. The petitioner admittedly did not discharge any duties during the period from the date of his dismissal till the date of his acquittal. Therefore, on the basis of subsequent acquittal, he cannot claim pay and allowances.

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18. In this regard, reference may be made to the judgment in ***Munnalal Mishra v. Union of India and others, 2005 (20) SCT 697; 2005 Law Finder (MP) 548***, wherein a Division Bench of the Madhya Pradesh High Court, while considering a similar issue arising out of dismissal consequent upon conviction in a criminal case, held that although the employee was not entitled to pay and allowances for the period from dismissal till the date of his acquittal, however, such period could not be treated as *Dies Non* and was required to be counted as period of service without any break. The Court further held that the employee would be entitled to back wages from the date of acquittal till the date of reinstatement. The concluded paras read as under:

> *"11. Petitioner has not worked between 9-3-1995 to 4-10-2001. The dismissal was on account of conviction in criminal case. Applying the principles laid down by the Supreme Court, the contention of the petitioner that he is entitled to pay and allowances between the date of dismissal and the date of reinstatement, is liable to be rejected. However, the impugned order holding the period between the date of dismissal and the date of reinstatement shall be treated as dies-non, can not be upheld, as it is opposed to the decision of the Supreme Court in Union of India v. Jaipal Singh, (2004) 1 SCC 121. On acquittal, the petitioner was entitled to be reinstated in service and the period between the date of dismissal and the date of acquittal/reinstatement has to be counted as period of service, without any break. But the petitioner will not be entitled to claim pay and allowances from the date of dismissal (8-3-1995) to date of acquittal (31-8-1999). In this case, the petitioner sought reinstatement on account of the acquittal on 4-10-1999 and that was untenably rejected first and later accepted and reinstated on 4-10-2001. The petitioner will be entitled to pay or allowances with effect from 1-9-1999, though he was reinstated only on 4-10-2001.*
>
> *12. The petition is, therefore, allowed in part as follows :-*

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(i) The petitioner will be entitled to continuity of service in respect of the period between the date of dismissal and date of reinstatement. The order directing the same be treated as 'dies-non' is quashed.

(ii) The petitioner will be entitled to back wages only from 1-9-1999 and will not be entitled to any pay or allowances for the period 8-3-1995 (date of dismissal) to 31-8-1999 (date of acquittal).

(iii) Parties to bear their respective costs."

19. Applying the aforesaid principle to the facts of the present case, this Court is of the considered view that the period commencing from the date of the petitioner's dismissal from service till the date of his reinstatement cannot be treated as a break in service or as '*Dies Non'* for the purposes of his service career. The said period shall be counted as period spent in service, without any break, for all intents and purposes.

20. However, the petitioner shall not be entitled to pay and allowances for the period from 10.02.2004 till 05.07.2018, i.e. the date of his dismissal to date of his acquittal. The fact that the respondent-Department had no role in the criminal proceedings and that the petitioner did not render any service during the said period weighs against the grant of back wages for the period prior to his acquittal. Thus, the principle of 'No Work, No Pay' would operate only to the extent of denying pay and allowances for the said period and cannot be extended to deny continuity of service and other consequential service benefits.

21. However, once the petitioner stood acquitted by this Court vide judgment dated 05.07.2018, there remained no justification for keeping him out of service, particularly when the competent authority itself had subsequently reinstated him and had decided that no further departmental

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action was required. The period from 05.07.2018 till 20.12.2018, therefore, cannot be attributed to any lapse on the part of the petitioner. Consequently, the petitioner shall be entitled to pay and allowances for the said period.

22. In view of the above discussion, the present writ petition is partly allowed. The orders dated 20.12.2018 (Annexure P-4), 01.05.2020 (Annexure P-6), 24.07.2020 (Annexure P-7) and 25.11.2020 (Annexure P-8) are set aside to the extent the same treat the period from 10.02.2004 to 20.12.2018 as 'No Work, No Pay (*Dies Non*)' and deny continuity of service and consequential service benefits.

23. The petitioner shall not be entitled to pay and allowances for the period from 10.02.2004 to 05.07.2018. He shall, however, be entitled to continuity of service in respect of the period between the date of dismissal and date of reinstatement, as well as back wages for the period from 05.07.2018 till 20.12.2018, subject to adjustment of any amount already paid to him.

24. The consequential benefits, as directed above, be worked out and released to the petitioner within a period of three months from the date of receipt of a certified copy of this order.

25. The writ petition stands disposed of in the above terms.

06.10.2026 **(NAMIT KUMAR)**
Vimal **JUDGE**

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

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