

benefits. I have held that the result of the enquiry itself will make no difference, for the impugned proceeding of concluding an enquiry through a disciplinary action after superannuation was impermissible and therefore, the imposition of punishment ought to fail for the same reason as the earlier reasoning that the enquiry could not have been persisted even through a disciplinary action subsequent to the date of superannuation.

(12) The writ petition is allowed but under the circumstances, there shall be, however, no direction as to costs. The petitioner shall now be entitled to the accrued benefits, which were denied to him with interest @9% per annum. The amount shall be calculated and given to the workman within a period of 8 weeks from today.

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**R.N.R.**

*Before Mukul Mudgal, C. J, Jasbir Singh & Hemant Gupta, JJ.*

**RANDHIR SINGH,—Petitioner**

*versus*

**STATE OF HARYANA AND OTHERS,—Respondents**

**CWP No. 5786 of 2002**

19th April, 2010

*Constitution of India, 1950—Art. 226—Punjab Civil Services Rules—Rls. 7.3 & 7.5—Conviction of petitioner under section 302 IPC—Supreme Court acquitting petitioner of charges—Reinstatement of petitioner—Respondents rejecting claim of petitioner for full salary and allowances for suspension period—Rl. 7.5 provides that an adjustment of allowance for such period should be made according to circumstances of case—Respondents directed to pass a reasoned order in accordance with Rl. 7.5 after taking into consideration facts and circumstances of petitioner's case.*

*Held*, that a formal order dated 22nd February, 2002, merely follows the order dated 21st February, 2002. Orders dated 21st February, 2002 and 22nd February, 2002 are devoid of reasons taking into account the fact that the respondent was required to address the circumstances of

the case. We are of the view that this reference need not be answered because it is for the respondent to pass a reasoned order on the basis of rule 7.5 of the Punjab Civil Services Rules. The respondents are accordingly directed to pass a reasoned order in accordance with Rule 7.5 read with Rule 7.3 of the aforesaid Rules after taking into consideration the facts and circumstances of the case and it will be open to the petitioner to assail, in accordance with law, the order, if it goes against him. The said order shall be passed by the respondent on or before 19th July, 2010.

(Para 3)

R.K. Malik, Sr. Adv., with Sajjan Singh Malik, Advocate, *for the petitioner.*

Narender Hooda, Addl. A.G., Haryana, *for the respondents.*

**MUKUL MUDGAL, CHIEF JUSTICE (ORAL)**

### **JUDGMENT**

(1) This reference has arisen on the fact that on 29th March, 1985, the petitioner was suspended owing to the existence of a criminal charge under Section 302 IPC against him. On 8th October, 1985, the petitioner was convicted under Section 302 IPC and sentenced to undergo life imprisonment, which judgment was affirmed in appeal by the High Court of Punjab and Haryana on 25th September, 1986. On 2nd March, 2001, the Hon'ble Supreme Court acquitted the petitioner. The counsel for the petitioner has sought to reply upon rule 7.5 of the Punjab Civil Services Rules, as applicable to Haryana, which reads as follows :

“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 periods during which he is detained in custody or is undergoing imprisonment and not allowed to draw any pay and allowances (other than any subsistence allowance that may be granted in accordance with the principles laid down in rule 7.2) for such periods 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 allowances 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 the competent authority to be unjustified."

(2) Reliance has been placed upon the aforesaid rule to contend that adjustment of allowance for a period should be made according to the circumstances of the case. The order in question (Annexure P-3) dated 21st February, 2002, reads as follows :

"FROM

Director, Secondary Education, Haryana,  
Chandigarh.

To

The Distt. Education Officer,  
Bhiwani

Memo No. 4/42-2001/Estt.-3(3)

Dated 21st February, 2002

Sub : Regarding the grant of opinion of Shri Randhir Singh, PTI for reinstatement on acquittal from the Hon'ble Supreme Court.

In reference your letter No. E-2-2001/2176 dated 30th August, 2001 on the above mentioned subject.

You are directed that Shri Randhir Singh, PTI be reinstated with effect from 2nd March, 2001 and he may be considered duty period for all intents and purposes with effect from the said date. The suspension period from 29th March, 1985 to 1st March, 2001 be sanctioned as leave of the kind due.

Sd/-

Supdt. (Admn.)-III,  
for Director, Secondary Education, Haryana.

Dated 21st February, 2002"

(3) A formal order—Annexure P-4 dated 22nd February, 2002, merely follows the order Annexure P-3. In our view, orders Annexures P-3 and P-4 are devoid of reasons taking into account the fact that the respondent was required to address the circumstances of the case. We are of the view that this reference need not be answered because it is for the respondent to pass a reasoned order on the basis of rule 7.5 of the aforesaid Rules. The respondents are accordingly directed to pass a reasoned order in accordance with Rule 7.5 read with Rule 7.3 of the aforesaid Rules after taking into consideration the facts and circumstances of the case and it will be open to the petitioner to assail, in accordance with law, the order, if it goes against him. The said order shall be passed by the respondent on or before 19th July, 2010.

(4) In view of the above, we are of the view that the reference dated 10th April, 2002, need not be answered at this stage and the reference stands discharged accordingly.

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**R.N.R.**

*Before Rakesh Kumar Garg, J.*

**UNION OF INDIA AND OTHERS,—Defendant-Appellants**

**versus**

**VED PARKASH SHARMA,—Plaintiff-Respondent**

**RSA No. 5563 of 2003**

26th May, 2009

*Constitution of India, 1950—Art. 226—Railway Claims Tribunal Act, 1987—Ss. 13 & 15—Railways Act, 1989—Code of Civil Procedure, 1908—S.9—Plaintiff suffering multiple injuries in an accident at Railway Station on account of gross negligence of employees of railways—Suit for damages/compensation—Whether Civil Court has jurisdiction to try and entertain such a suit—Held, yes—Mere fact that a special Statute provides for certain remedies, may not by itself necessarily exclude jurisdiction of Civil Courts to deal with a case brought before it in respect of some of matters*