



HARYANA VIDYUT PRASARAN NIGAM LIMITED

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To

1. The CE/Admn., HVPNL, Panchkula
2. The CGM/Admn., UHBVN, Panchkula
3. The CE/Admn., HPGCL, Panchkula
4. The CGM/Admn. & HR, DHBVN, Hisar

Memo No. 55/LB-2 (187) Dated: 09.12.2022

Subject: CWP No. 20391 of 2015 titled as Ram Singh Vs. UHBVNL & Ors.

Attention is drawn to judgment dated 14.10.2022 passed in subject cited case vide which the Hon'ble High Court dismissed the aforesaid Civil Writ Petition. The operative part of judgment dated 14.10.2022 is given here under: -

"The said question again came up for consideration before the Hon'ble Supreme Court of India in Jaipal Singh's case (supra), wherein it was held that where an employee was convicted for an offence committed by him in his private life, when acquitted, upon reinstatement, back wages cannot be claimed because employer cannot be blamed and made liable for the personal conduct of an employee. It is only where the termination of the services of an employee is upon the complaint of the employer for any act and conduct of the employee in the course of his employment, the employee can claim the back wages. The relevant paragraph 4 of the said judgment is as under:-

"4. On a careful consideration of the matter and the materials on record, including the judgment and orders brought to our notice, we are of the view that it is well accepted that an order rejecting a special leave petition at the threshold without detailed reasons therefor does not constitute any declaration of law by this Court or constitute a binding precedent. Per contra, the decision relied upon for the appellant is one on merits and for reasons specifically recorded therefor and operates as a binding precedent as well. On going through the same, we are in respectful agreement with the view taken in 1996(11) SCC 603 (supra). 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 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."

In the present case, the allegation against the petitioner was leveled by a 3rd person relating to cheating wherein, the petitioner was held guilty and it was only upon his conviction, keeping in view the rules governing the service, as said conduct reflected upon the moral of the petitioner, the petitioner was dismissed from service on the basis of the said conviction and it cannot be said that the department had any role to play either in initiating criminal proceedings or conviction thereafter. Hence, keeping in view the judgment of the Hon'ble Supreme Court of India in Jaipal Singh's case (supra), the petitioner cannot be granted the said benefit."

It is an important judgment on the issue that an employee is not entitled for the grant of full salary either in respect of period when he remained under suspension or for the period, he remained out of service after passing the order of dismissal from service on account of criminal proceedings or conviction on account of personal conduct. The above judgement be circulated to offices under your control for praying dismissal of similar cases by placing reliance on the judgment dated 14.10.2022 passed by Hon'ble High Court. It is also requested to direct the concerned Deputy Secretary, Technical to host the Judgment dated 14.10.2022 on the website of concerned Power Utility. A complete copy of judgment dated 14.10.2022 is enclosed herewith for ready reference.

This issue with the approval of L.R.

DA/As Above



Legal Officer,
HPU, Panchkula.

CC:-

1. The Deputy Secretary/Technical, UHBVN, Panchkula and DHBVN, Hisar, HVPNL, Panchkula for hosting on website.
2. The SE/IT, HPGCL, Panchkula.
3. The CE OP Circle, UHBVN, Panchkula & Rohtak.
4. The CE OP Circle, DHBVN, Hisar