

Civil Writ Petition No.12502 of 2006.

**IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

...

Date of Decision: January 21, 2008.

Poonam Rani

... Petitioner

VERSUS

**Uttar Haryana Bijli Vitran Nigam Limited through its
Managing Director, Panchkula and others** ... Respondents

**CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.
HON'BLE MR. JUSTICE MOHINDER PAL.**

1. Whether Reporters of Local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. P.K. Longia, Advocate,
for the petitioner.

Mr. Narinder Hooda, Advocate,
for the respondents.

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MOHINDER PAL, J.

Petitioner Poonam Rani was serving as a Lower Division Clerk in Uttar Haryana Bijli Vitran Nigam Ltd. (for short 'the Nigam') at Jind. On April 16, 1997 First Information Report No.204 dated April 16, 1997, under Sections 392 and

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120-B of the Indian Penal Code was registered against her at Police Station City, Jind along with Deepak, Sukhdev and Bhalla alias Rajesh on the allegation that they (Deepak, Sukhdev and Bhalla alias Rajesh), in furtherance of their common intention committed robbery of cash amount to the tune of Rs.1,80,000/- and two cheques for Rs.37,000/- from the Office of the Nigam at Jind and Poonam (petitioner) connived with them and helped them in committing the robbery. However, they were acquitted by the Court of Additional Chief Judicial Magistrate, Jind, vide judgment dated August 09, 2005 (Annexure P-9). No appeal against the order of acquittal was preferred by the Nigam.

The petitioner was also proceeded against departmentally. However, vide inquiry report (Annexure P-5 (b), the Inquiry Officer found that none of the witnesses produced by the Presenting Officer had pointed out anything doubting the involvement of the petitioner in the incident of robbery.

After the petitioner had been exonerated in the departmental as well as criminal proceedings, she was reinstated into service vide order dated January 17, 2006 (Annexure P-12). Thereafter, she made representation dated January 25, 2006 (Annexure P-13) requesting the Nigam to treat her suspension period as on duty period and refix her pay by regularizing her suspension period. Instead of deciding the representation, the Superintendent Engineer of the Nigam

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passed the order dated March 13, 2004 (Annexure P-14) issuing advice to the petitioner to keep herself away from such activities in future. The petitioner then made another representation dated May 09, 2006 (Annexure P-15) in this regard. Her representation was ultimately decided by the Superintending Engineer of the Nigam vide order dated July 17, 2006 (Annexure P-16) and suspension period of the petitioner was ordered to be treated as leave of the kind due.

In this petition filed under Articles 226 /227 of the Constitution of India, the petitioner seeks the issuance of a writ in the nature of certiorari for quashing the orders dated March 13, 2006 (Annexure P-14) and dated July 17, 2006 (Annexure P-16) and for further direction to the respondents to reinstate her in service with all consequential benefits.

In the written statement filed by the Nigam, its action of treating the suspension period of the petitioner as leave of the kind due has been justified. The Nigam relied upon the instructions dated October 03, 1997 (Annexure R-1) issued by the Government of Haryana and averred that the petitioner was not entitled to reinstatement with grant of all consequential benefits along with back wages etc.

We have heard the learned counsel for the parties and perused the record.

Learned Additional Chief Judicial Magistrate, Jind, has ordered acquittal of the petitioner after threadbare examination of the evidence. It has been noticed that the prosecution has

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miserably failed to connect the accused with the commission of offences for which they have been charge-sheeted. It has further been noticed that no guilt can be attributed to the accused and due to lack of evidence charges are not sustainable against them. In such circumstances, it can hardly be said that the acquittal of the petitioner is not honourable. As such, contention of the learned counsel for the Nigam, to the contrary, cannot be accepted. The petitioner was suspended because of criminal prosecution against her. Once she is acquitted therein and reinstated into service, she is entitled to full pay during the period of her suspension. Similar view was taken by a Division Bench of this Court in the case reported as **Shashi Kumar vs. Uttri Haryana Bijli Vitran Nigam and another, 2005 (1) Service Cases Today 577.**

In the case of **Shiv Kumar Goel v. State of Haryana and another, 2007 (1) Service Cases Today 739,** also a Division Bench of this Court observed as under:-

“ If the Criminal Court recorded finding that there was no evidence to prove the charge of corruption against the charged employee, notwithstanding observations as to acquittal by benefit of doubt, it will be considered honourable acquittal. His benefits of pay and allowance over and above subsistence allowance cannot be forfeited still observing him guilty of the

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same charges.”

Besides, in this case the Inquiry Officer had completely exonerated the petitioner by holding that there was no doubt of any kind against her integrity and that none of the witnesses produced by the Presenting Officer pointed towards involvement of the petitioner in the incident of robbery.

For the aforesaid reasons, we are of the considered view that the petitioner is entitled to be reinstated in service with all consequential benefits. We quash the impugned orders dated March 13, 2006 (Annexure P-14) and dated July 17, 2006 (Annexure P-16). The respondents are directed to reinstate the petitioner into service with full back wages. No order as to costs.

(HEMANT GUPTA)
JUDGE

(MOHINDER PAL)
JUDGE

January 21, 2008.
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