

## Didar Singh Vs The State of Punjab

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** July 23, 2014

**Citation:** (2014) 176 PLR 730

**Hon'ble Judges:** K. Kannan, J

**Bench:** Single Bench

**Advocate:** Dinesh Nagar, Advocate for the Appellant; Ranbir Singh Pathania, DAG, Advocate for the Respondent

**Final Decision:** Disposed Off

### Judgement

K. Kannan, J.

The writ petition contains a challenge to an action initiated by the authorities for his (the petitioner's) alleged refusal to take

the bus on route that caused a delay by four hours. The charge-sheet was issued for insubordination and monetary loss and the reply by the

petitioner was that he had applied for medical leave which had been admittedly received but they were still proceeding with the enquiry. He had

been placed under suspension on the same day till it was revoked through the order passed under P5 on 30.05.1990 directing reinstatement and

merely issuing an order of censure. It is brought out in the writ petition that he had opted for voluntarily retirement which was accepted, to take

effect on 29.05.1990. There is a prayer in the writ petition that he shall be granted all the monetary benefits which have been withheld.

2. Before arguments got underway, I directed the State counsel to inform whether the terminal benefits had been paid to him. The counsel

circulates for consideration of the court an order issued in the same year directing the pension to be released to him. It appears that the petitioner

himself has expired and so too, his wife as well. There seems to be no dispute about the entitlement to pension and the counsel appearing on behalf

of the petitioner himself has no instructions whether pension had not been paid to him as originally complained of in the writ petition. Under the

circumstances, I am of the view that the only point that would require to be seen is whether the order passed reinstating him that directs the period

of suspension to be treated as leave of the kind due was appropriate or not. The counsel would state that he had been kept under suspension from

07.11.1988 to 29.05.1990 when he had voluntarily retired. There was no rule that allowed for a suspension to continue beyond a period of 6

months and if the ultimate order was an order of a minor punishment such as censure, there was no scope for denying to him the full salary during

the entire period. Rule 7.2, Volume-I of the Punjab Civil Services Rules allows for increasing subsistence allowance by an amount not exceeding

50%. It should mean 50% of 50% over and above the subsistence allowance of 50%. In effect, it should be 75%. In any event, the rule does not

allow for extension of the period of suspension beyond a period of one year. The suspension beyond 07.11.1988 cannot therefore be supported

and, therefore, from 07.11.1988 to 29.05.1990, he shall be taken as entitled to full allowance.

3. The counsel for the petitioner argues that in terms of decision of this court in Rattan Singh Chaudhary Vs. The State of Punjab and Another,

where suspension is unjustified, full pay and allowances should be allowed to the person. I have found that suspension would not have been

possible beyond a period of one year. The first six months of suspension and subsequent six months were justified since there was an enquiry

constituted against him and the enquiry was pending before Enquiry Officer. In para 4 of the writ petition, the petitioner's only grievance had been

that the disciplinary authority did not offer to him a show cause notice before punishment was imposed. That was not even necessary since the

punishment was only censure and no show cause notice was necessary. There had never been an objection that he was not aware of the enquiry

before the Enquiry Officer or there were any vitiating circumstances attendant on the departmental enquiry. The prayer regarding

terminal/pensionary benefits does not require to be addressed for the reasons stated already. The entitlement to subsistence salary @ 50% for 6

months, at 75% for next 6 months and full salary for the next period upto date of voluntary retirement should be paid if not already paid.

4. After the judgment was dictated in open court, the counsel for the petitioner cites a decision in Y.P. Sehgal Versus State of Punjab-1992(2)

SCT 179 to state that if the punishment was only censure, denial of full salary would be neither permissible in law nor fair. I find the head note in

the judgment is incorrect and misleading. The judgment in text does not make such a proposition of law. In that case an employee was served with

suspension in contemplation of departmental action. After the charge-sheet was issued and reply was elicited, there seemed no justification for

conducting enquiry and it was dropped. He was forthwith reinstated. It was in that circumstance that it was held that full salary must be given. The

said principle does not apply to the present set of facts.

5. The writ petition is disposed with the directions contained in para 3 above.