



**220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**LPA-356-2022(O&M)
Date of decision: 22.04.2026**

Ashwani Kumar

...Appellant

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Deepak Agnihotri, Advocate
for the applicant-appellant.

Mr. Saurabh Mohunta, D.A.G. Haryana.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This appeal arises out of the judgment dated 28.03.2022 passed by the learned Single Judge in CWP-32156-2018, whereby the claim of appellant for counting the period between 1991-2001 for fixation of salary has been rejected.

2. Undisputed facts of the case are that the appellant was employed with the respondent-Haryana Roadways, Gurugram, on the post of Clerk. He was proceeded against in departmental proceedings, on a charge of which FIR was lodged against him. Ultimately, in the disciplinary proceedings, the appellant was held guilty and order of dismissal from service was passed. This order was unsuccessfully challenged in the appeal.

3. The appellant then approached the Civil Court by instituting Civil Suit No. 252 of 2002 claiming relief in the nature of declaration with regard to invalidity of the orders of punishment passed against him and also for



consequential benefits. The suit was partly decreed inasmuch as the Civil Court granted declaration with regard to invalidity of the orders of punishment and also allowed continuity in service, yet, relief of backwages was denied.

4. Cross-appeals were filed by both the appellant and respondent-Haryana Roadways, which were ultimately decided by the Lower Appellate Court granting the relief of backwages to the appellant. The Regular Second Appeal filed before this Court has also failed. It is thereafter that the appellant raised the claim on account of incorrect fixation of his salary.

5. The ground urged by the appellant is that the period of work between 1991-2001 has not been counted for the purpose of determination of his salary. It stated that once continuity in service has been allowed, the period between 1991-2001 could not have been excluded for the purposes of computation of salary. Learned Single Judge, however, rejected such claim by observing as under:-

"4. As regards the contention of the learned counsel for the petitioner that he ought to have been given the benefit of period from 1991 to 2001 when he remained out of job, giving him notional benefits of the increment which would have been granted, if he were in service, is not sustainable. Admittedly, petitioner was ordered to be re-inducted from the date of his acquittal and while passing the said order, there is no mention with regard to the grant of consequential benefits including the notional fixation of pay for the period he remained out of job. Once the salary for the period he remained out of job has been denied to the petitioner, it does not lie in his mouth to claim annual increment on the salary which itself was not paid.



5. No grounds to interfere are made out since the backwages alongwith increment from the year 2001 onwards have already been paid as stated aforesaid."

6. Learned counsel for the appellant submits that once the decree of Civil Court granting relief of continuity in service has attained finality, the period during which the appellant was kept out of service on account of orders of punishment could not have been relied upon for denying service benefits for the period between 1991 to 2001.

7. Learned State counsel opposes the prayer made on behalf of the appellant in the present case.

8. Having heard the learned counsel for the parties, we find that the services of appellant were terminated by specific orders, which were put to challenge in a suit for declaration filed by the appellant. The suit has been decreed in part. There is a declaration with regard to invalidity of the orders of punishment. The Civil Court has also granted relief of continuity in service. However, the relief of backwages was denied.

9. In cross-appeals filed by the respondent-Haryana Roadways and also the appellant, this Court vide judgment and order dated 06.04.2011 has upheld the judgment of the Lower Appellate Court. As a consequence, the decree of the Trial Court, granting relief of reinstatement without backwages stood modified with relief of continuity in service alongwith backwages.

10. A short question that arises for consideration is as to whether the period between 1991 to 2001 could be counted for the purposes of computation of salary and other service benefits.



11. The question posed does not raise much of issue, inasmuch as the effect of grant of continuity of service by the Civil Court would enure to the appellant all service benefits for the period between 1991-2001 when he was denied the right to work.

12. Learned Single Judge therefore was not right in denying computation of period from 1991-2001 for the purposes of determination of salary and other service benefits.

13. In view of the discussion held aforesaid, this appeal succeeds and is allowed. The judgment of the learned Single Judge is set aside. The writ petition of the appellant stands allowed with a direction upon the respondents to count the period from 1991-2001 for the purposes of determination of salary of the appellant. Necessary computation in terms of present direction would be made and benefits be extended to the appellant within a period of three months.

14. It is made clear that the period from 1991-1994 has already been counted for fixation of salary and other service benefits and no further benefits in this regard would be required to be extended.

15. Pending application(s), if any, stand(s) disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

22.04.2026

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Whether speaking/reasoned :
Whether Reportable :

Yes
Yes

No
No