

CASE NO.:
Appeal (civil) 552 of 2008

PETITIONER:
CONSTABLE SAHIB SINGH

RESPONDENT:
STATE OF PUNJAB & ORS.

DATE OF JUDGMENT: 21/01/2008

BENCH:
P.P. Naolekar & Lokeshwar Singh Panta

JUDGMENT:
JUDGMENT

O R D E R
[ARISING OUT OF SLP(CIVIL) NO.21018 OF 2006]

Leave granted.

Brief facts of the case are that the appellant was charged and tried under Sections 376/354 IPC. He was suspended with effect from 28.6.1997 and was provided with subsistence allowance of 50% of his pay and later on at the increased rate of 75% with effect from 28.12.1997. The appellant was acquitted by the judgment dated 3.11.2000. After the acquittal of the appellant, an order was passed by the Commandant, 9th Battalion, PAP, Amritsar dated 24.5.2001 whereunder the appellant was reinstated from the date of his acquittal i.e. with effect from 3.11.2000.

The only contention urged before us by the learned counsel for the appellant is that the appellant having been acquitted by the competent Court, his period of service cannot be treated to be discontinued from the date of suspension i.e. 28.6.1997 till the date of his acquittal i.e. 3.11.2000. Learned counsel for the appellant is right in his submission. The appellant cannot be treated to be a 'dismissed servant' during the period of his suspension. His services shall remain to be continued in the Department till the final order of dismissal is passed by any competent authority. There is nothing on record to indicate that he was dismissed from service on account of the criminal proceedings taken up against him by the State. On he being acquitted, he shall be treated as continued in service all through and, therefore, the Commandant, 9th Battalion, PAP, Amritsar, was not correct in reinstating the appellant only from 3.11.2000. That being the case, the appeal is allowed with the aforesaid modification in the order of the High Court.