

From

The Chief Secretary to Government, Haryana.

To

- (i) All Heads of Departments.
- (ii) Commissioners/Ambala, Hisar, Rohtak and Gurgaon Divisions.
- (iii) All Deputy Commissioners and Sub Divisional Officers (Civil) in Haryana.
- (iv) The Registrar, Punjab & Haryana High Court, Chandigarh.

Dated Chandigarh, the 3-10-1997.

Subject :—Instructions regarding grant of benefits to a Government employee under suspension after acquittal in a Court Case.

Sir.

I am directed to invite your attention to Note 9 below Rule 7.3 of CSR Volume-I, Part-I which deals with the benefits to be granted to an employee under suspension after his acquittal by the Court, and to say that the Hon'ble Supreme Court in the case of Krishna Kant Raghunath Bibhavnekar V/s State of Maharashtra and others AIR 1997 SC 1434 has given the following ruling :—

“When a Government servant is prosecuted for commission of defalcation of public funds and fabrication of records and said prosecution had culminated into acquittal he cannot be made entitled to reinstatement with grant of all consequential benefits along with backwages etc. as a matter of course if the conduct alleged is the foundation for prosecution, though it may end in acquittal on appreciation or lack of sufficient evidence. Two courses are open to the disciplinary authority viz. it may enquire into misconduct unless the self-same conduct was subject of charge and on trial the acquittal was recorded on a positive finding that the accused did not commit the offence at all, but acquittal is not on benefit of doubt given. Appropriate action may be taken thereon. Even otherwise, the authority may, on reinstatement after following the principle natural justice, pass appropriate order including treating suspension period as period of not on duty, (and on payment of subsistence allowance etc.) Therefore, when the suspension period of the employee, charged for committing criminal breach of trust was treated to be a suspension pending the trial and even after acquittal, he was reinstated into service, he would not be entitled to the consequential benefits. As a consequence, he

would not be entitled to the benefits of nine increments and also not entitled to be treated as on duty from the date of suspension till the date of the acquittal for purpose of computation of pensionary benefits etc. Till now ordinarily the view taken was that a Government servant was entitled to all benefits after his acquittal by the Court in such cases and the suspension period was to be treated as duty, but the judgement mentioned above has now clearly held that this would not be the correct approach.

I have been directed to inform you that in future necessary action in cases of similar nature should be taken in accordance with the directions, guidelines given by Hon'ble Supreme Court in the judgement quoted above.

These instructions may kindly be brought to the notice of all concerned working under you for strict compliance in future.

Yours faithfully,

Sd/-

Joint Secretary, General Admn.,

for Chief Secretary to Government, Haryana.

A copy is forwarded to all the Financial Commissioners/Commissioners and all the Administrative Secretaries to Govt. of Haryana, for information and necessary action.

Sd/-

Joint Secretary, General Admn.

for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners/ Commissioners &
all Administrative Secretaries to Govt. of Haryana.