



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(213)

CWP No. 16604 of 2017 (O&M)

Date of Decision : 09.04.2025

Deewan Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Parminder Singh-1, Advocate for the petitioner.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

Ms. Shubreet Kaur, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the charge-sheet dated 14.02.2017 (Annexure P-4) issued by District & Session Judge, Gurdaspur on the ground that issuance of the charge-sheet to the petitioner after the retirement was not within the jurisdiction of the respondents keeping in view Rule 2.2(b) of the Punjab Civil Services Rules Volume-II, according to which, against a retired employee, the charge-sheet can only be served in case, the allegations relate to a period within four years of issuance of the charge-sheet.

2. Learned counsel for the petitioner-employee argues that the petitioner-employee retired from service on 30.04.2012, whereas the charge-sheet was served on 14.02.2017 (Annexure P-4), which is beyond a period of four years even after retirement and even the allegations qua which the charge-sheet was served related to the period 1996 to 1999, hence, the said charge-sheet was issued beyond the jurisdiction.



3. Upon notice of motion, the respondents have filed the reply, wherein, the facts mentioned here-in-before are conceded, the respondents are on record to say that the allegations came to the knowledge of the department only during the audit, which was done in the year 2015 and, therefore, as certain objections had come up against the petitioner-employee, the charge-sheet dated 14.02.2017 (Annexure P-4) was served upon gaining the knowledge of the existing allegations against the petitioner-employee.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. The jurisdiction to issue the charge-sheet in the facts and circumstances of the present case is to be adjudicated keeping in view the Rule 2.2(b) (ii) of the Punjab Civil Services Rules Volume-II. The said Rule 2.2(b) (ii) of the Punjab Civil Services Rules Volume-II is as under :-

“2.2 (b) The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if, in a departmental or judicial proceeding, the pensioner is found guilty of grave mis-conduct or negligence during the period of his service, including service rendered upon re-employment after retirement:

Provided that—

(1) Such departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer, be deemed to be a proceeding under this article and shall be continued and concluded by the authority by which it



was commenced in the same manner as if the officer had continued in service;

(2) Such departmental proceedings, if not instituted while the officer was in service whether before his retirement or during his re-employment—

(i) shall not be instituted save with the sanction of the Government;

(ii) shall not be in respect of any event which took place more than four years before such institution; and

(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his service.”

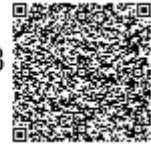
(3) No such judicial proceedings, if not instituted while the officer was in service, whether before his retirement or during his re-employment shall be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution; and

The Public Service Commission should be consulted before final orders are passed. Explanation.—For the purpose of this rule—

(a) a departmental proceeding shall be deemed to be instituted on the date on which the statement of charges is issued to the officer or pensioner, or if the officer has been placed under suspension from an earlier date, on such date; and

(b) a judicial proceeding shall be deemed to be instituted—

(i) in the case of a criminal proceeding, on the date on which the complaint or report of the police officer on which the Magistrate takes cognizance, is made; and



(ii) in the case of a civil proceeding, on the date of presentation of the plaint in the court.”

6. A bare perusal of the above mentioned Rule would show that though a charge-sheet dated 14.02.2017 (annexure P-4) can be served upon a retired employee but the same cannot be served qua an allegation, which is four years old on the date when the charge-sheet is served. The said Rule is to be applied in the facts and circumstances of the present case. Concededly, the petitioner retired on 30.04.2012 and the charge-sheet was issued on 14.02.2017, which period is even beyond four years after the date of retirement much to top the allegation.

7. Further, even the allegations in the impugned charge-sheet relate to the period 1996 to 1999. That being so, no charge-sheet could have been served upon the petitioner-employee keeping in view Rule 2.2(b) (ii) of the Punjab Civil Services Rules Volume-II. Learned counsel for the respondents has not been able to rebut the said fact that according to the Rule reproduced here-in-before, the charge-sheet was beyond the jurisdiction of the respondents. Further, the issue that no charge-sheet can be issued to a retired employee with regard to an allegation which is more than four years old on the date the charge-sheet is covered by a judgment of this Court in CWP No. 25593 of 2021 titled as ***Satwant Singh Gill Vs. State of Punjab and others***, decided on 08.08.2024.

8. Keeping in view the above, the charge-sheet dated 14.02.2017 (Annexure P-4) and the consequent proceedings, if any conducted, are set-aside.



9. Present petition is allowed in above terms.
10. Pending miscellaneous application, if any, also stands disposed of.

April 09, 2025

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No