

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

CWP-12974-2012 (O&M)

Date of decision : 05.05.2015

Tarsem Gujral

...Petitioner

Versus

Punjab State Civil Supplies
Corporation Ltd. and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashish Grover and Mr. Vikas Chatrath, Advocates,
for the petitioner.

Mr. R.S. Pandher, Advocate for respondent No.1.

JITENDRA CHAUHAN, J.

Prayer in the present petition filed under Articles 226 and 227 of the Constitution of India, is for quashing of impugned charge sheet dated 30.04.2012 (Annexure P-1), issued against the petitioner by the respondent.

The learned counsel for the petitioner submits that the impugned charge sheet (Annexure P-1) has been issued on 30.04.2012, in contravention of Rule 2.2(b) of the Punjab Civil Services Rules, Part-II, Volume-2, inasmuch as the same has been issued after a lapse of more than four years from the date of his retirement upon attaining

the age of superannuation on 30.04.2008. He cites ***Dr. Inderjit Singh Wasu Vs. State of Punjab and others***, rendered in CWP No.18451 of 2004, decided on 22.05.2007 (Annexure P-4); and ***Jasbir Singh Vs. P.R.T.C. and others***, rendered in CWP No.19820 of 2009, decided on 18.01.2012.

On the other hand, the learned counsel for respondent No.1 submits that as per the procedure, 'no dues' certificates were called from all the District Managers, PUNSUP, within the State of Punjab, at the time of the retirement of the petitioner and it revealed that a show cause notice dated 13.12.2006, was pending against the petitioner. Thereafter, a charge sheet was issued to the petitioner on 30.04.2012, with regard to the irregularities during the Paddy Years 2005-06 and 2006-07 while the paddy crop was kept in his custody. The delay in issuance of charge sheet occurred due to the fact that the responsibility of the petitioner was not fixed in time by the Audit Party and the petitioner was held responsible vide enquiry report dated 24.05.2011.

Heard.

In Inderjit Singh Wasu's case (supra), it has been held as under:-

“We are further of the view that the allegations against the petitioner with regard to purchase of second hand photostat machine cannot be gone into

after his retirement. From the perusal of the written statement it appears that the machine was purchased somewhere in 1999 and the allegation now levelled against the petitioner is that it was second hand machine purchased by the petitioner when he was Principal and he paid the amount showing the machine to be brand new. It is evident that the petitioner retired on 28.1.2003 and there was ample time with the respondents to proceed against him during his service instead of levelling this allegation after his retirement. Such a method of fastening liability on a retired employee has to be termed as unfair and arbitrary. If the petitioner has committed the offence of misappropriation then by issuing a show-cause notice such an order cannot be passed by concluding that the allegation stood proofed and the petitioner was guilty of misconduct of such a magnitude. Likewise, the allegation of misappropriating of books and seeking recovery of an amount of Rs.20,000/- from the retiral benefits of the petitioner would fall in the same category. In that regard reference may be made to the letter dated

16.7.2004 (R-2/2) addressed by the petitioner to the Principal to show that the petitioner had returned 23 books to the Librarian and the Librarian made the revised list. The total cost calculated by the Librarian was Rs.992.10 and a cheque to that effect was sent by the petitioner, which was not accepted by the Principal. The cheque was sent by the petitioner to the Principal thereafter. Therefore, the disputes of this nature could not be raised after the retirement of the petitioner.”

In Jasbir Singh's case (supra), it has been held thus:-

“The writ petition seeks to quash a charge sheet issued on 11.09.2008 on the ground that the petitioner has retired from service on 31.07.2007 and the proceedings, which were initiated were initiated were contrary to Rule 2.2.(b) of the Punjab Civil Services Rules Volume-2 as adopted by the respondent-Corporation. The Rule contemplates the continuance of proceedings in a case where the departmental proceedings initiated while the officer was in service whether before his retirement or

during his re-employment shall after the final retirement of the officer, to be deemed to a proceedings under this Article (2.2) and shall be continued and concluded by the authority by which it was commenced in the same manner and as if the officer had continued in service. The explanation to this “of what constitutes deemed to be instituted” is brought out separately.

“(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, if the officer has been placed under suspension from an earlier date, on such date.”

In terms of the same, a departmental proceeding could be continued only if the statement of charges had been issued to the officer at the time when he was still in service. Even apart from the bare reading of the section, the matter has been dealt with by two decisions of this Court while dealing with the meaning of para 2.2(b)(ii) and the tenability of initiation of departmental proceeding, post

*retirement. A Division Bench of this Court in **Dr. Inderjit Singh Wasu v. State of Punjab and others, 2007(3) SCT 788** and still earlier in another judgment **Sub Inspector Puran Chand (Retd.) v. State of Punjab and others, 2000(3) SCT 515** have held that if a charge-sheet was issued subsequent to the retirement of an incident, which had taken place more than 9 years prior to retirement, the departmental action would be impermissible. In this case, an incident for which explanation had been called for was of the year 1989 and explanation had been called for in the year 2004. No action had been taken till he retired from service on 31.07.2007 and charge sheet itself had been issued more than a year after his retirement. The whole proceedings are vitiated and they are liable to be quashed and the writ petition is allowed.*

Admittedly, in the present case, the show-cause notice was issued to the petitioner on 13.12.2006. Therefore, the allegations pertain to the period even prior to 13.12.2006. The petitioner retired from service on 30.04.2008, whereas, the impugned charge sheet

(Annexure P-1) came to be issued against the petitioner on 30.04.2012. Therefore, there was ample time with the respondents to proceed against him during his service period. The case of the petitioner is squarely covered by the dictum of law laid down in Inderjit Singh Wasu's case and Jasbir Singh's case (supra).

In the circumstances, the present petition is allowed, impugned charge sheet dated 30.04.2012 (Annexure P-1) is hereby quashed and the respondents are directed to release the consequential benefits, in accordance with law, within a period of four months from the date of receipt of a certified copy of this judgment.

05.05.2015

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**(JITENDRA CHAUHAN)
JUDGE**