

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

Civil Writ Petition No.16313 of 2011

Date of decision: 15.12.2015

Sukhjinder Singh Sandhu

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.G.S.Bal, Sr.Advocate, with
Mr.A.D.S.Bal, Advocate,
for the petitioner.

Mr.Inqulab Nagpal, AAG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

This petition has been filed against the issuance of two charge-sheets dated August 13, 2007 and April 1, 2008. The imputation of misconduct relates back to the year 2002. The charge is for preparing faulty planning of works by the Superintending Engineer under his charge resulting in skewed construction inasmuch as the earth work was almost complete and the pucca works were completed to the extent of less than 33% when the petitioner was Chief Engineer, Irrigation, Punjab. The two charges sheets have been issued to the petitioner long after retirement.

Earlier he was issued six other charge-sheets for major misconduct, two of

which, were quashed by the Court while the remaining were filed by the Government when no truth was found in the allegations.

2. Mr.G.S.Bal, learned senior counsel argues that both the pending charge-sheets are hit by rule 2.2(b) of the Punjab Civil Services Rules, Volume-II in view of the bar contained therein. The rule requires that the incident should not be more than 4 years prior to the retirement. The charge sheet relate to imputations of misconduct during the period of about one year before the petitioner retired in 2003 and the department of Government could not re-open the matter by initiating disciplinary proceedings by issuing a charge sheet in respect of an employee who stands retired in 2003.

3. Learned senior counsel relies on the decision of the Division Bench of this Court in **Baldev Singh v. State of Punjab and others**; 2008 (4) SCT 652 : 2009 (1) ILR (Punjab) 163, the facts of which apply to this case. The Division Bench considered the scope of rule 2.2(b)(ii) of the PCS rules which mandates that in case departmental proceedings are not instituted before retirement or during re-employment, it shall not be in respect of any event which took place more than four years before such institution. It is well settled that disciplinary proceedings begin with service of charge sheet as only on that day the disciplinary proceedings start but more than 4 years have gone by after retirement. The Division Bench observed that the Sword of Damocles cannot be kept hanging on the head of the retiree for all times to come and he should be allowed to live in peace after the statutory period of four years of his retirement has come to an end and no action was taken on the alleged misconduct.

4. Faced with this situation, Mr.Nagpal has nothing to offer in the glaring face of the rule which is clearly in favour of the petitioner. It may be noted that the operation of the charge-sheets was stayed by interim orders.

5. As a result, this petition is allowed and the impugned charge-sheets are quashed. The pensionary benefits be restored to the petitioner and the arrears be paid to him within 3 months from the date of receipt of a certified copy of this order. The arrears of money will, however, earn interest @ 6% per annum till realization calculated from 36 months prior to the institution of this petition.

(RAJIV NARAIN RAINA)
JUDGE

December 15, 2015

Paritosh Kumar