

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 23030 of 2012 (O&M)

Date of decision : December 10, 2015

Lakhbir Singh

.....Petitioner

Versus

Pepsu Road Transport Corporation and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vikas Chatrath, Advocate
for the petitioner.

Mr. Anupam Singla, Advocate
for the respondents.

LISA GILL, J.

Petitioner, who retired on 31.08.2006 challenges charge sheet dated 28.06.2011 (Annexure P-2) in respect to alleged omission in the year 1994.

Undisputed facts are that petitioner was appointed as Clerk with respondent-Corporation on 15.07.1975. He was promoted to the post of Junior Assistant in the year 1977. He retired on attaining the age of superannuation on 31.08.2006. Petitioner is governed by the Punjab Civil Services Rules, Punjab Government

Employees (Conduct) Rules, 1966 (hereinafter referred to as 'Rules') which have been adopted by respondent-Corporation. Subsequent to his retirement, show cause notice dated 28.06.2011 (Annexure P-2) was issued with allegation that in the year 1994 demand for annual rent was not raised before the Head Office due to which payment was not made by Head Office to Chandigarh depot. Due to this lapse on the part of the petitioner, interest of ₹19,126/- became payable. Thus, petitioner was responsible for causing financial loss to the Corporation. Reply dated 21.09.2011 was submitted by the petitioner with a prayer that it should be dropped being in contravention of rules and factual position.

While not denying the factual aspect, only stand taken by the respondents is that charge sheet should not be quashed on the ground of bar envisaged under Rule 2.2 (b) of the Punjab Civil Services Rules, Volume-II, Part-II in larger public interest. It is submitted that irregularity in question came to notice of the respondents in the year 2011, when lease deed regarding plot where the workshop is situated, was to be renewed by the Estate Office, Chandigarh. Lease deed was renewed after deposit of ₹85,000/- vide draft dated 22.03.2011, therefore, charge sheet should be considered to be served within a period of four years. Thus, there is no effective violation of Rule 2.2 (b) of the Rules.

Relevant part of Rule 2.2 of the abovesaid rules reads as under:-

“Rule 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 misconduct or negligence, during the his service, including service rendered on re-employment after retirement .

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(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 of such proceedings 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 shall 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

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It is apparent that no proceedings can be initiated against a retired employee in respect to an event which took place more than four years before such institution.

In the present case, petitioner retired on 31.08.2006. Show cause notice, Annexure P-2, was issued on 28.06.2011, nearly five years after his retirement and that too for an incident, relating to the year 1994. Contention that things came to light in the year 2011 itself is unacceptable as such a defence is not available to the respondents.

A Division Bench of this Court while dealing with similar situation in **R.C. Gupta versus PSEB 2002 (2) SLR 559** held as under:-

“ Faced with this difficulty the learned counsel for the respondent submitted that earlier it was not to the knowledge of the respondent with regard to the illegalities committed by the petitioner as the matter was pending with the Vigilance Department and on coming to know from the Vigilance Department the respondent authorities had initiated the action against the petitioner. But we are not convinced with the submission raised by the learned counsel for the respondent in view of Rule 2.2 (b) of the Punjab Civil Service Rules which states that the departmental proceedings, if not instituted while the officer was in service, whether before his retirement or during his re-employment, shall not be in respect of any

event which took place more than four years before such institution. A reading of the rule would show that the defence taken up by the respondent is not open to it. Admittedly, the petitioner has been charge sheeted for the events of 1984 vide charge sheet dated 26.03.1999. Therefore, such charge sheet cannot be sustained in the eyes of law.”

This Court in **S.S. Julka versus Punjab State Warehousing Corporation and another 2015 (4) SCT 344** has followed the same reason.

Equally untenable and fallacious is the argument that proceedings should be permitted against the employee in larger public interest. Department is not at liberty to proceed against its employees in contravention of specific provisions.

Keeping in view the facts and circumstances of the case, this writ petition is allowed. Charge sheet dated 28.06.2011 is quashed. Consequently, benefits if any, which may have been withheld due to this charge sheet be released to the petitioner.

December 10, 2015
rts

(Lisa Gill)
Judge