

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

CWP No. 1518 of 2008
Date of decision: 22.09.2016

Sunder Lal Garg (dead) through LRs

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Anuj Raura, Advocate,
for the petitioner.

Mr. Rahul Verma, AAG, Punjab.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, the petitioner has questioned the validity of charge sheet dated 04.06.2004 and order of dismissal dated 08.08.2005 vide Annexure P-4 and P-9, respectively.

The petitioner while he was in service, the disciplinary authority initiated disciplinary proceedings by framing charges on 04.06.2004. Before completion of disciplinary proceedings, the petitioner attained the age of superannuation and retired from services on 31.07.2004. The disciplinary proceedings were concluded by imposing penalty of dismissal from service on 08.08.2005.

The short question for consideration is whether the disciplinary authority can imposing the penalty of dismissal from service on an employee after his retirement from service. Perusal of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 the applicability clause excluded retired persons. Therefore, against retired employee Punjab Civil Services (Punishment and Appeal)

Rule, 1970 is not applicable. Consequently, imposing the penalty of dismissal from service on 08.08.2005 is without authority of law. The matter could have been remanded to disciplinary authority to reconsider the penalty imposed, however, due to later development that the petitioner Sunder Lal Garg has died and legal representatives have been brought on record therefore, question of remanding the matter to the disciplinary authority do not arise.

In view of these facts and circumstances, the order dated 08.08.2005 imposing penalty of dismissal from service on the petitioner, who has retired on 31.07.2004 is set aside.

The writ petition accordingly, stands allowed.

22.09.2016

PA

(P.B. Bajanthri)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No