

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 22315 of 2016
Date of decision: 26.10.2016

Padam Singh

... Petitioner

Versus

State of Haryana & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. HC Arora Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

1. The prayer in this petition is for quashing the impugned charge sheet issued after retirement from service. The controlling authority under Rule 2.2(b) of the Punjab Civil Services Rules, Volume I, Part-I as applicable to Haryana is the State Government. In the present case, there were allegations levelled against certain members of the staff of the Department of Food and Supplies, Haryana who were found to have connived with depot holders by making bogus ration cards to misappropriate money from the Public Distribution System (PDS) of items mentioned for distribution to general ration card holders under the PDS scheme. It was under Court directions that the Deputy Commissioner, Hisar, inquired into the matter and after a detailed inquiry conducted by the Additional Deputy Commissioner, Hisar, with the enquiry report forwarded to the Government of Haryana vide letter dated May 30, 2012 with the recommendation to the department to refer the matter to the Vigilance Department, Haryana, for further inquiry with the matter taken forward to examine misconduct of the erring officials. Accordingly, Complaint No.10, dated September 6, 2012 was registered by the Vigilance Department

against the erring staff of the Food and Supplies Department and the depot holders. It was during the course of this investigation that the name of the petitioner surfaced for which he has been issued a charge-sheet on March 28, 2016.

2. Mr. Arora has sought shelter of the provisions of Rule 2.2(b) urging that the charge-sheet deserves to be set aside for the reason that it has been issued four years after the incident. The incident that Mr. Arora connects with the rule is the surprise checking conducted of Fair Price Shop of Rajesh Kumar, Dyal Singh Colony, Hansi for the period April, 2011 to December, 2011. That furnishes reason to the petitioner to the protection under Rule 2.2(b). Mr. Arora counts the period from December, 2011 as starting point of operation of the protection of the rule. The period in fact runs either from May 30, 2012 or September 6, 2012, when the State Government was in seisin of the flaw in the PDS system and subsequent registration of complaint with the Vigilance Department, the charge-sheet having been brought on March 20, 2016 within four years of knowledge attributable to the Government whereas the disciplinary authority was neither the Deputy Commissioner nor the Additional Deputy Commissioner, Hisar in the case of the petitioner. The disciplinary authority was the Director, Food and Supplies, Haryana and the period therefore starts when the scam came to his notice for the first time that the mandate of Rule 2.2 (b) is said to have started to run.

3. I would, therefore, find no merit in the argument of Mr. Arora that his client deserves the protection of Rule 2.2(b) of the Rules for the reason that the occurrence happened over 4 years prior to the date of superannuation and therefore deserves to be invalidated. The petitioner

retired from service on February 28, 2014. Having argued this point and failed, Mr. Arora next turns to urge that even on merits he has a case for interference. His client has submitted a reply to the charge-sheet and thus a direction should be issued to the respondents to consider the reply and take a decision thereon in a time bound manner. The present is a writ petition seeking declaration of law for or against the petitioner and the jurisdiction can ordinarily not be exercised in the normal course as an expedite application for speeding up administrative action. Hence, the Government would remain free to take its decisions on each of the milestones involved in the inquiry but within reasonable time. The department I am sure is alive that reasonableness is part of the rule of law of which a facet is a fair and speedy trial.

4. In view of the above, I find no reason to warrant interference in this matter in writ jurisdiction provided by Article 226 of the Constitution of India where rule 2.2 (b) ex facie on the facts presented does not protect the petitioner. He must face the domestic trial to establish his conduct alleged in the charge sheet. The charge sheet is not open to be quashed summarily.

5. For the above reasons, the petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

26.10.2016

monika

Whether speaking/reasoned *Yes*

Whether reportable *No*