

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

**C.M. No. 3924 of 2016 in/and
C.W.P No. 27780 of 2013
Date of decision : 05.05.2016**

Suresh Kumar Jain

...Petitioner

versus

**Haryana State Federation of Consumers
Co-op Wholesale Stores Ltd & anr.**

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Namit Kumar, Advocate
for the petitioner.

Mr. J.S. Cooner, Advocate
for the respondents

RITU BAHRI , J.

C.M. No. 3924 of 2016

Application is allowed as prayed for.

Accordingly, replication is taken on record.

C.W.P No. 27780 of 2013

By way of present writ petition, petitioner is seeking quashing of charge sheets dated 01.02.2010, 16.03.2010 and 08.01.2013 (P-16, 18 and 20 respectively) and order dated 12.02.2013/11.03.2013 (P-8) whereby recovery of Rs.1,71,675/- has been ordered despite issuance of show cause notice 23.10.2008 (P-4) and order dated

14.10.2013 (P-10) whereby appeal preferred by the petitioner was rejected. Further prayer is for issuance of direction to the respondents to expedite and finalize the disciplinary proceedings initiated pursuant to charge sheet dated 11.08.2008 (P-11) in a time bound manner.

Brief facts of the case are that the petitioner was appointed as Assistant Manager in November 1975 and retired as General Manager on 31.05.2009.

Now the petitioner filed a replication and as per his replication, vide order dated 30.09.2015, the charge sheet dated 11.08.2008 has concluded by the department and the petitioner has been issued show cause notice for recovery of Rs.3,28,095/-. Against this order, petitioner has filed an appeal, which is pending consideration.

As regards the first prayer of the petitioner to set aside charge sheets, which were issued after the date of his retirement, is accepted, in view of the judgment passed by this Court in a case of **R.D. Bansal v. Haryana State Federation of Consumers Co-op Wholesale Stores Ltd & anr, passed in CWP No. 9722 of 2014, decided on 09.02.2016** wherein also an employee of Co-op was charge sheeted after the date of his retirement and this Court allowed the writ petition, as there is no provision in Rules 1975 with regard to issuance

of charge sheet or imposing a penealty upon an employee after retirement. Thus, this Court set aside charge sheet, which were issued to the petitioner after his retirement and directions were given to the respondents to conclude the proceedings in the charge sheets, which were issued before the date of his retirement, within a period of six months. Thereafter, petitioner was given liberty to claim his retiral benefits on finalization of the charge sheets. This Court while allowing the writ petition has observed as under:-

The dispute in the present writ petition which requires for consideration is that whether charge-sheet can be issued after the retirement.

*Identical view has already been decided by this Court by way of CWP No.1873 of 2014 titlted **Jogi Ram Vs. Haryana State Federation of Consumer's Co-operative Wholesale Stores, decided on 23.05.2014** (Annexure P-36), wherein, it was held that there is no provision in the Rules 1975 as to the issuance of charge-sheet or imposing a penalty upon an employee after retirement. The similar view was also gone before the Hon'ble Supreme Court in case **Chandra Singh Vs. State of Rajasthan and another, 2003(6) SCC 545** and this Court in **S.S. Arya Vs. Uttar Haryana Bijli Vitran Nigam, Panchkula and others, 2009(8) SLR 53.***

The second prayer of the petitioner is for setting aside order dated 14.10.2013 on the ground that it was totally cryptic order, whereby appeal of the petitioner against order dated 12.02.2009/01.03.2009 was rejected.

After going through order dated 14.10.2013, it shows that no finding has been given in this order and this order is also liable to be set aside.

Applying the ratio of the above mentioned judgments, the writ petition is allowed and charge sheets dated 01.02.2010, 16.03.2010 and 08.01.2013 (P-16, 18 and 20 respectively) are hereby quashed and order dated 14.10.2013 is also hereby quashed and respondents are directed to pass afresh order after giving opportunity of hearing to the petitioner.

As far as appeal dated 16.10.2015 of the petitioner against recovery order dated 30.09.2015 is concerned, a direction is given to Board of Directors-respondent No. 2 to pass final order on the appeal dated 16.10.2015, within a period of four months from the date of receipt of certified copy of this order.

05.05.2016

G Arora

(RITU BAHRI)
JUDGE