

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.207

CWP No.28501 of 2013

Date of decision: 29.04.2016

B.K. Sehgal

....Petitioner

versus

Haryana State Federation of Consumers Co-operative Wholesales Stores
Limited (Confed), Panchkula

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

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

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

* * *

DEEPAK SIBAL, J. (Oral)

The present writ petition has been filed seeking quashing of charge-sheet dated 28.01.2013 (Annexure P-7) on the ground that there is no provision under the applicable Staff Service Rules (hereinafter to referred as 'the 1975 Rules') of the respondent- Haryana State Federation of Consumer's Cooperative Wholesale Stores Limited, to charge-sheet or hold disciplinary proceedings against a retired employee. Issuance of directions to the respondents to expedite and finalize the disciplinary proceedings initiated through three other charge-sheets dated 25.03.2009 (Annexure P-2), 19.01.2012 (Annexure P-4) and 29.11.2012 (Annexure P-6) are also sought alongwith directions to the respondents to release to the petitioner all

his retiral dues as per law and not to withhold his accrued ACPs merely on account of pendency of the afore-referred charge-sheets.

Learned counsel for the petitioner submits that the petitioner while serving the respondent-Haryana State Federation of Consumers Co-operative Wholesales Stores Limited (hereinafter referred to as the 'Federation') as Assistant Manager retired from service on 31.12.2012. At the time of his retirement the following charge-sheets were pending:-

	<i>Date of Charge-sheet</i>	<i>Annexure in the Writ Petition</i>
i)	25.03.2009	Annexure P-2
ii)	19.01.2012	Annexure P-4
Iii)	29.11.2012	Annexure P-6

It is further submitted that after the retirement of the petitioner, he was served upon the following charge-sheet:-

	<i>Date of Charge-sheet</i>	<i>Annexure in the Writ Petition</i>
i)	28.01.2013	Annexure P-7

In the light of the above facts, learned counsel for the petitioner submits that there being no provision in the 1975 Rules to charge-sheet the petitioner after his retirement, the afore-referred charge-sheet dated 28.01.2013 (Annexure P-7) has no legs to stand. So far as the other three charge-sheets which were issued to the petitioner before his retirement are concerned, it is submitted that at this stage he would be satisfied if directions are issued to the respondents to expedite the proceedings in pursuance thereof.

I find merit in the submission of the learned counsel for the petitioner.

So far as the charge-sheet dated 28.01.2013 (Annexure P-7) is concerned, the same could not have been issued after the petitioner had

retired as in this regard there is no provision in the 1975 Rules to back the same.

This view of mine finds support from a judgment of this Court in **CWP No.9722 of 2014; R.D. Bansal versus Haryana State Federation of Consumers Co-operative Wholesale Stores Limited**, decided on 09.02.2016 wherein, it has been held that there being no provision in the 1975 Rules for issuance of a charge-sheet or imposing of a penalty upon an employee after his retirement the same could not be issued. A relevant extract of the judgment is reproduced below:-

“Learned counsel for the petitioner states that the petitioner was retired on 30.09.2011 and at the time of retirement some charge-sheets were pending against him. One charge-sheet was issued after his retirement on 18.10.2012 (Annexure P-28), which is legally not permissible. During the pendency of this petition, charge-sheet dated 21.10.2005 (Annexure P-1) has been finalized, vide order dated 17.07.2014 (Annexure P-34) and some recovery has been sought from the petitioner. Another charge-sheet dated 28.12.2012 (Annexure P-23) has also been finalized with a recovery of ₹4.25 crores against the petitioner, vide order dated 28.04.2015 (Annexure P-35). As para No.3 of the replication, the following chargesheets were pending:-

	<i>Date of Charge-Sheet</i>	<i>Annexure in the Writ Petition</i>	<i>Issued before or after retirement</i>
i)	05.02.2009	Annexure P-7	Before retirement
ii)	17.03.2009	Annexure P-10	Before retirement
iii)	20.07.2009	Annexure P-14	Before retirement
iv)	19.01.2010	Annexure P-20	Before retirement
v)	18.10.2012	Annexure O-28	After retirement

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.**

In view of the facts and law position as mentioned above, the present petition is allowed and the impugned charge-sheet dated 18.10.2012 (Annexure P-28) is set aside. Further direction is given to the respondent to conclude the proceedings in the charge-sheets dated 05.02.2009 (Annexure P-7), 17.03.2009 (Annexure P-10), 20.07.2009 (Annexure P-14) and 19.01.2010 (Annexure P-20), within a period of six months.” (emphasis supplied)

So far as charge-sheet dated 28.01.2013 (Annexure P-7) is concerned, the case of the petitioner is fully covered in his favour by the afore-quoted observations made by this Court in **R.D. Bansal's case (supra)**.

In view of the facts and position of law as above, the present petition is allowed and the impugned charge-sheet dated 28.01.2013 (Annexure P-7) is set aside. Since the petitioner stands already retired, I deem it just and proper to direct the respondents to conclude the proceedings qua the charge-sheets dated 25.03.2009 (Annexure P-2), 19.01.2012 (Annexure P-4) and 29.11.2012 (Annexure P-6), within a period of six months from the date of receipt of a certified copy of this order.

The writ petition stands disposed of in the above terms.

No costs.

(DEEPAK SIBAL)
JUDGE

April 29, 2016
Jyoti 1