

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

CWP No. 18494 of 2015 (O&M)
Date of decision: 21.2.2017

Hardev Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Amit Kaith, Advocate,
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

JAISHREE THAKUR, J.

1. The petitioner herein is aggrieved against the charge-sheet dated 17.7.2015 issued under the Punjab Civil Services (Punishment and Appeal) Rules, 1970 ('**the Rules**' for short) and seeks to have the same quashed.

2. In brief, the facts are that the petitioner, who joined the respondents as Bus Driver on 27.7.1988, met with an accident while driving the bus. A FIR No. 280 dated 31.8.2001 was got registered and subsequent thereto proceedings were initiated under Section 279/304 IPC. The petitioner was acquitted by judgment dated 1.12.2006 in the said case. However, legal heirs of the deceased filed a claim petition and the Motor Accident Claims Tribunal awarded compensation of Rs. 7,84,613/-. The petitioner was also charge-sheeted on 27.1.2006 on the allegations that the accident took place due to negligence of the petitioner. In the charge-sheet,

the petitioner was held guilty and punished with stoppage of four increments with cumulative effect and the departmental appeal against the said order was also dismissed. The petitioner thereafter filed a civil suit challenging the order of punishment as well as order of the appellate authority. The said suit was decreed in favour of the petitioner and the order of punishment was set aside. As per the judgment and decree dated 18.7.2012, the respondents were given two months' time to conduct a fresh inquiry. However, no fresh inquiry was conducted and rather the four increments that were stopped as punishment were restored, as per order dated 31.12.2012. The petitioner superannuated on 31.5.2014 and after retirement, he was issued a fresh charge-sheet dated 17.7.2015 on the basis that accident took place on 31.8.2001 on account of negligence of the petitioner due to which compensation has been awarded by the Motor Accident Claims Tribunal, which was further enhanced by the High Court to Rs. 9,49,690/- along with interest.

3. Aggrieved against the issuance of the charge-sheet dated 17.7.2015, the petitioner replied stating therein that he cannot be charge-sheeted again on the same allegations and furthermore, he had since retired from service, therefore, charge sheet issued is against the Rule 2.2 (b) of the Punjab Civil Services Voume II.

4. Per contra, learned counsel for the respondents submits that the charge sheet issued is on account of the negligence of the petitioner herein which resulted in the death of a passenger on account of which the Department had to suffer financial loss, while paying compensation.

However, the respondents are not able to dispute the fact that the impugned

charge sheet has been issued after the petitioner had superannuated on 31.5.2014.

5. I have heard learned counsel for the parties and have also perused the record of the case.

6. Rule 2.2 (b) and (c) of the Punjab Civil Service Volume II is reproduced hereunder:

“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 period of his service, including service rendered upon re-employment after retirement:

provided that –

(1) Such departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer, be deemed to be a proceeding under this article and shall be continued and concluded by the authority by which it was commenced the same manner as if the officer had continued in service;

(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; and

(iii) XX XX XX”

7. A bare reading of the Rule 2.2 (b) of the Rules, stipulates that departmental proceedings, if not instituted against an officer while in service, shall not be instituted after his retirement, save with the sanction of the Government, and shall not be in respect of any event which took place more than four years before such institution.

8. In the instant case, there is nothing on the record to show that before issuing charge-sheet sanction of the Government has been obtained, as mandated by law since the petitioner stood retired. Moreover, as per the said rule itself, no charge-sheet can be initiated for an incident which took place prior to four years of issuance of charge sheet. There is no ambiguity in the specific language of the statute which clearly prohibits of starting disciplinary departmental proceedings against an officer, who has since retired, for an event which took place 4 years prior to such institution. The incident which led to issuance of the charge sheet pertains to the incident which took place in the year 2001 that is about 14 years prior in time to the issuance of the charge sheet. Moreover, the charge sheet has been issued on the same lines as the one issued on 27.1.2006. After issuance of the charge sheet in 2006, punishment that was awarded came to be challenged by the petitioner before the Civil Judge (Junior Division), Chandigarh, who set aside the order of punishment as far back as on 18.7.2012 with liberty to the defendants/respondents to conduct a fresh inquiry within a period of two months. The respondents in their wisdom slept over the matter and did not conduct a fresh inquiry, but restored the four increments that had been ordered to be stopped with cumulative effect. Therefore, there is an inordinate delay in issuance of the charge sheet.

9. Placing reliance on a Division Bench judgment rendered in **Baldhir Singh Versus State of Punjab and others** reported on **2008 (4) STC 652**, it can safely be held that there is utter violation of Rule 2.2 (b) of the Rules.

10. In view of the above, the writ petition is allowed and the impugned charge sheet being dehors the Rules is hereby set aside.

21.2.2017
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No