

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 5748 OF 2009**

S.K. Pandey, Retired Assistant Mining Officer, aged about 64 years, S/o Shri J.P. Pandey, R/o New Rajendra Nagar, Bajaj Colony, Sector-II, behind Telephone Exchange, District Raipur (CG)

... Petitioner**versus**

1. State of Chhattisgarh, through: Secretary, Department of Mineral Resources, D.K.S. Bhavan, District- Raipur (CG)
2. Under Secretary, Department of Mineral Resources, D.K.S. Bhawan, Raipur (CG)

... Respondents

For Petitioner	:	Mr. Amit Soni, Advocate.
For Respondents	:	Mr. Ashutosh Pandey, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****02/08/2018**

1. Challenge in the present writ petition is to the issuance of charge-sheet and initiation of disciplinary proceeding against the petitioner.
2. The charge-sheet in the instant case was served upon the petitioner on 28.6.2008. The petitioner stood retired from services with effect from 31.12.2004.
3. The challenge in the present writ petition to the disciplinary proceeding is on the two grounds. Firstly, the order of initiating disciplinary proceeding against the petitioner is contrary to the provisions of rule-9 of the Chhattisgarh Pension Rules wherein a disciplinary proceeding against a delinquent employee post retirement can only be initiated with the prior sanction of the Governor. According to the petitioner in the instant case it is the Council of Ministers who has taken a decision and therefore it is contrary to rule-9 of the Chhattisgarh Pension Rules. It was further contended that the charge-sheet also has been issued after more than four years from the date of misconduct which is alleged to have been committed by the petitioner. As per the charge-sheet, the date of incident is of 25.2.2004 and the charge-sheet is dated 28.6.2008 which shows that it is beyond four years and therefore it is again in

violation of rule-9 of the Chhattisgarh Pension Rules which debars the authorities from initiating disciplinary proceeding after four years from the date of commission of the misconduct in respect of a retired employee.

4. So far as the ground of competency of the authorities who have issued the order is concerned, the said issue does not need any further discussion in the light of the decision of the Hon'ble Supreme Court in the case of **Samsher Singh v. State of Punjab and Another & Ishwar Chand Agarwal v. State of Punjab, 1974 (2) SCC 831**. The said view has further been reiterated by the Hon'ble Supreme Court in the case of **State of M.P. & Others v. Dr. Yashwant Trimbak, 1996 (2) SCC 305**.

5. So far as the ground of limitation is concerned, a perusal of the charge-sheet dated 28.6.2008 would reveal that the misconduct which has been alleged against the petitioner is said to have started on 25.2.2004 and it continued till the last permission i.e. pit pass which was issued by the petitioner on 29.12.2004 and from 29.12.2004 if we consider the date of issuance of charge-sheet it clearly reveals that the charge-sheet has been issued well within the period of four years within which a disciplinary action can be initiated.

7. Given the aforesaid facts and circumstances, this Court is of the opinion that no strong case has been made out by the petitioner calling for an interference with the impugned charge-sheet and also the disciplinary proceeding initiated. However, considering the fact that the petitioner is a senior citizen by now about 70 years of age, ends of justice would serve if the respondents are directed to conclude the enquiry at the earliest preferably within six months from the date of disposal of the writ petition.

8. The writ petition accordingly stands dismissed with the above observation.

Sd/-
(P. Sam Koshy)
Judge