

**115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-9095-2021(O&M)

Date of decision: 28.04.2021

Surender Kumar Bansal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Nilesh Bhardwaj, Advocate, for the petitioner

Ms. Kirti Singh, DAG, Haryana

ANIL KSHETARPAL, J. (ORAL)

1. The petitioner, who has retired on 31.01.2019, challenges the initiation of departmental proceedings against him on the ground that these have been initiated after the lapse of the period prescribed under the rules.

2. Learned counsel representing the petitioner has drawn the attention of the Court to para 3 of the reply submitted by the petitioner to the chargesheet, which reads as under:-

“3) That as per advice granted by worthy Chief Secretary to Govt. of Haryana vide his Memo No. 18/07/2021-6GSI Dated 25-02-2021 on my RTI application under RTI Act 2005, worthy Chief Secretary has opined that a retired Haryana Govt. Servant can be chargesheeted only under Rule 12.2(a) of Chapter 3 of the Haryana Civil Services (Pension) Rules, 2016 and as per a copy of the rules supplied by the Chief Secretary the relevant portion of the rule 12.2 (b) (ii) is reproduced as under:-

The departmental proceedings, if not, instituted while the Govt. employee was in service, whether before his retirement, or during his re-

employment:-

(ii) shall not be in respect of any event which took place more than four years before such institution (copy attached as Annexure A-5)

Further it is pertinent to mention here that in the present case, the incident relates to the dated 07.08.2014, thus there is an inordinate and unexplained delay of 7 years in initiating the inquiry proceedings and therefore it is prayed that the chargesheet deserves to be withdrawn on this score alone.”

3. He submits that the disciplinary authority without considering the aforesaid objection has proceeded to appoint the inquiry officer.

4. Notice of motion.

5. On the request of the Court, Ms. Kirti Singh, DAG, Haryana, accepts notice on behalf of respondent no.1, 2 and 4.

6. After having heard learned counsel for the parties at some length, this Bench is of the view that the ends of justice would be met if the Additional Chief Secretary to the Government of Haryana, Finance Department, Haryana, is requested to consider the objection as noticed above and pass a speaking order thereon within one month from today, after granting an opportunity of hearing to the petitioner.

Disposed of.

28.04.2021

rekha

(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No