214 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-7079-2017
Date of decision: 29.11.2021

Rajinder Kumar ....Petitioner

versus

State of Punjab and others ....Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. H.S. Saggu, Advocate
for the petitioner.

Ms. Simran Grewal, AAG, Punjab
for respondent No.1-State.

Mr. Sanjeev Soni, Advocate
for respondents No.2 and 3.

<u>FATEH DEEP SINGH, J.</u>

The petitioner at the relevant time was working as Mandi Supervisor posted with Market Committee, Sunam, District Sangrur, from where he retired on 31.01.2016 after attaining age of superannuation. The petitioner was issued charge sheet vide letter No.1903 dated 13.01.2017 and the copy of the charge sheet is (Annexure P-2). The allegation against the petitioner is that during his service, it was found out that certain firms had deposited less amount of Rural Development Funds

(RDF) as compared to the Market Fee (Month-wise) for the years 2012-13; 2013-14 and 2014-15. Thus, it was alleged that due to this misconduct by the petitioner, financial loss of Rs.13,53,066/- accrued to the Market Committee, Sunam and hence, he was departmentally dealt with. Aggrieved over the issuance of the charge sheet and initiation of administrative proceedings, the petitioner has come up in this Civil Writ Petition under Articles 226/227 for issuance of writ in the nature of *certiorari* for quashing the charge sheet and directing the respondents to release his retiral benefits along with interest at the rate of 12% per annum.

The stand of the contesting respondents No.2 and 3 was of total denial claiming that the petitioner had concealed material facts and claimed that it was vide resolution dated 29.01.2016, much prior to the retirement of the petitioner, resolution was passed for administratively dealing with him for his acts of misconduct. The respondents had denied each and every averment and sought dismissal of the petition on the grounds that even against a retiree, inquiry can be initiated if the event has taken place within four years of such retirement.

Heard learned counsel of both the sides and perused the records.

On behalf of the petitioner, reliance has sought to be placed on the judgments titled as *'Dev Prakash Tewari versus U.P. Cooperative Institutional Service Board, Lucknow'* 2014(8) Scale 216. No doubt, Article 300A of the Constitution of India provides that persons not to be deprived of property as saved by authority of law and in its ambit and sway falls all pensions and retiral benefits including gratuity. In the present case, admittedly, the petitioner claims to have retired on 31.01.2016 and the stand of the respondent-Department that on 29.01.2016, they have passed resolution (Annexure R-2/1) to administratively deal with the petitioner and to hold inquiry against him and, thus, inescapably, the orders for holding an inquiry were passed prior in time to petitioner's retirement. As has been contended before this Court by the rival counsel had it not been for an order dated 05.04.2017 whereby, this Court had virtually held charge sheet is against the Service Rules has put to hold the inquiry certainly does not impresses this Court much. Firstly, the orders to administratively deal with the petitioner had been made prior to his retirement and secondly, in terms of Rule 2.2 (b) (2) of the Punjab Civil Service Rules, which are reproduced as below:-

> *"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 proceedings, the pensioner is found guilty of grave misconduct or negligence, during his service including service rendered on 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 in the same manner and as if the officer had continued in service.

2) Such departmental proceedings, if not instituted while the officer was in service whether before 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 an even which took place not more than four years before the institution of such proceedings; and

(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his service.

(3) No such judicial proceedings, if not instituted while the officer was in service whether before this retirement or during his employment, shall be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution; and...”

and thus, provide to deal with such an eventuality. More so, huge financial loss is reported to have been caused to the Department by the acts of omission and commission by the petitioner and, therefore, being within the ambit of the aforesaid Civil Rules, does not estop the respondent-Department for proceeding ahead into the matter as per law.

To the specific query of this Court, counsel for the petitioner could not cite any provision under which he claims such an inquiry cannot be finalized. There appears to be no merit in the instant petition, the same being wholly devoid of merits, stands dismissed.

(FATEH DEEP SINGH)
JUDGE

29.11.2021
Neha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No