

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(201)

CWP-14005-2020

Date of Decision : April 20, 2022

Balbir Singh

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vishal Sharma, Advocate, for the petitioner.

Mr. Navdeep Chhabra, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed seeking quashing of the charge sheet dated 07.02.2020 which has been issued to the petitioner on the ground that the same has been done in violation of Rule 2.2 (b) (2) of the Punjab Civil Service Rules Vol. 2 as the allegations which have been raised in the said charge sheet relate to the period which is more than 4 years old on the date the charge sheet was issued.

Learned counsel for the petitioner submits that in the charge sheet dated 07.02.2020 the allegations are with regard to the audit which has been done for the period from 01.04.2013 to 31.03.2014 and as the petitioner remained in service after the said incident, but no such action was taken against him till 31.12.2016 and after approximately more than 3 years of the retirement of the petitioner, the present charge sheet has been served

upon him.

Upon notice of motion, the respondents have filed the reply. In the reply, it has been mentioned that the petitioner took voluntarily retirement on 30.09.2016 but as the charge sheet has been served upon the petitioner within a period of 4 years of the retirement, which is the requirement of Rule 2.2. (b) of the Punjab Civil Service Rules, the prayer of the petitioner may kindly be rejected as the same has been done by wrongly interpreting the required rule.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, the basis of challenge to the charge sheet dated 07.02.2020 by the petitioner is Rule 2.2. (b) of the Punjab Civil Service Rules Vol. 2. The said Rule is as under:-

“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 mis-conduct 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 in 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) 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.”

A bare perusal of the Rule 2.2. (b) (2) of the Punjab Civil Service Rules the departmental proceedings, after the retirement cannot be instituted without the sanction of the Government and also in respect of an event which took place more than 4 years prior to the serving of the said charge sheet.

In the present case, the charge sheet is being served upon the petitioner on 07.02.2020 with regard to alleged negligence committed in the audit report for the year 2013 and 2014, which report was submitted on 27.04.2015. That being so, the allegations relate to a period which is more than 4 years old on the date when the charge sheet is served on 07.02.2020. The stand taken by the respondent that the charge sheet is to be served within a period of 4 years of the retirement, is not borne out of the plain reading of Rule 2.2.(b) (2) of the Punjab Civil Service Rules. The said interpretation has been rendered by the respondents only to support their illegal action.

Keeping in view the above, there is no jurisdiction with the respondents to serve the petitioner the charge sheet on the allegations as contained in the charge sheet dated 07.02.2020. The same is impermissible keeping in view the provisions of Rule 2.2. (B) of the Punjab Civil Service Rules. Accordingly, the charge sheet dated 07.02.2020 along with consequential proceedings is quashed.

The present petition is allowed in above terms.

April 20, 2022

harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes