

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-19280-2019

Date of Decision :06.09.2022

Babu Lal

...Petitioner

Versus

Managing Director, Haryana Agro, Industries
Corporation Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajinder Partap Singh, Advocate for
Mr. P.S. Jammu, Advocate for the petitioner.

Mr. Padamkant Dwivedi, Advocate for the respondent.

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Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the prayer of the petitioner is for setting aside the charge sheet dated 04.09.2018 (Annexure P/3), which charge sheet has been issued to the petitioner by the respondent-Corporation after his retirement in respect of the allegations which relates to years 2011-2012 and keeping in view the rules governing the service on said aspect, there is no power with the respondent-Corporation to issue a charge sheet to an employee after his/her retirement.

Further prayer of the petitioner is that even otherwise, if rules of the Government of Haryana are made applicable to the employees of the respondent-Corporation, then also, as the petitioner retired on 31.07.2014 and the charge sheet was issued to the petitioner after 04 years of his

retirement hence, the serving of the charge sheet upon retirement is impermissible under law and the present writ petition is liable to be allowed on this ground alone.

After notice of motion, the respondent has appeared and submitted that as only disputed question of law is to be decided and in the present writ petition the facts are not in dispute hence, no reply is needed to be filed in this case. Learned counsel for the respondent very fairly submits that keeping in view the settled principle of law and the rules governing the service no rule authorizes the department so as to serve a charge sheet upon an employee after his/her retirement and that too when the allegations relates to a time period, which is 04 years prior to the issuance of the charge sheet.

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

The question of law raised in the present writ petition already stands answered while passing order in CWP-6229-2018 & CWP-9868-2019 titled as **Baldev Singh Saini and others vs. Haryana State Federation of Consumers Cooperative Wholesale Stores Limited**, wherein, it has been held that a charge sheet to a retired employee can only be issued in case there is specific provision under the rules governing the service with the respondent to issue the same. No such rule has been cited before this Court by the respondent, as to under which provision of law, the petitioner has been issued a charge sheet after four years of his retirement and that too in respect of the allegations, which relates to year 2011-2012.

In the absence of any rule authorizing the respondent department to issue a charge sheet to a retired employee, it can be safely held that issuance of a

charge sheet to the petitioner by the respondent is beyond the jurisdiction of the respondent.

Even otherwise, if the rules of the Government of Haryana are made applicable in the present case, then also, a charge sheet can only be issued to a retired employee if allegations do not relate to a period, which is more than 04 years at the time of issuance of charge sheet. In the present case, charge sheet has been issued to the petitioner after 04 years of his retirement in respect of the allegations which relate to years 2011-2012, which act of the respondent cannot be sustained in the eyes of law.

Keeping in view the above, the charge sheet dated 04.09.2018 (Annexure P/3), which was issued to the petitioner by the respondents after four years of his retirement, is without any jurisdiction and also against the rules governing the service and, hence, the same cannot be sustained and is accordingly quashed.

Writ petition is allowed.

September 06, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No