

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

CWP-23649-2015 (O&M)

Date of decision: May 2, 2022

Ramphal Dhanda

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rajesh K. Kataria, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein is for issuance of a writ in the nature of certiorari to quash the impugned charge-sheet dated 28.01.2013 (Annexure P-20), order dated 05.06.2013 (Annexure P-22) and order dated 06.05.2015 (Annexure P-25) whereby the appeal of the petitioner has been dismissed.

2. Learned counsel for the petitioner submits that petitioner retired on 30.06.2012 as Inspector, Food and Supplies (Food & Supplies Department, Haryana). At the time of retirement, there was no departmental/judicial proceedings pending against the petitioner. After more than six months of retirement, the petitioner was issued a charge-sheet dated 28.01.2013 (Annexure P-20). Petitioner submitted a detailed reply dated 04.04.2013 (Annexure P-21) to charge-sheet. Respondent No.3 passed an order for recovery of an amount of Rs.1,21,178/- against the petitioner on account of less excess (sic) of Wheat. Respondent No.3 exonerated the other delinquent officials, who were also issued charge-sheet. Feeling aggrieved against the order dated 05.06.2013 (Annexure P-22), the petitioner preferred

an appeal dated 16.05.2014. Respondent No.2 dismissed the appeal vide order dated 06.05.2015 (Annexure P-25). Hence, the instant petition.

3. I have heard learned counsel for the parties and gone through the case file.

4. The position in law in this aspect is no more res integra. Reference may be had to a Division Bench judgment of this Court in case titled “**Dr. Inderjit Singh Wasu Vs. State of Punjab and others**” reported in **2007 (3) SCT 788**, learned brother M.M.Kumar, J. (as he then was in this court) observed as under:-

“It is well settled that no charge-sheet could be issued against an employee after his retirement because the relationship of employer and employee comes to an end with the superannuation of the employee subject to payment of his retiral benefits. After retirement only those proceedings are allowed to continue which have been initiated during the course of employment and if an employee is found guilty then either a cut in his pension could be imposed or recovery could be effected from his gratuity.

6. We are further of the view that the allegations against the petitioner with regard to purchase of second hand Photostat machine cannot be gone into after his retirement. From the perusal of the written statement it appears that the machine was purchased somewhere in 1999 and the allegation now leveled against the petitioner is that it was second hand machine purchased by the petitioner when he was Principal and he paid the amount showing the machine to be brand new. It is evident that the petitioner retired on 28.01.2003 and there was ample time with the respondents to proceed against him during his service instead of levelling this allegation after his retirement. Such a method of fastening liability on a retired employee has to be termed as unfair and arbitrary. If the petitioner has committed the offence of misappropriation then by issuing a show-cause notice such an order cannot be passed by concluding that the allegation stood proofed and the petitioner was guilty of misconduct of such a magnitude.”

5. The aforesaid view was duly upheld and approved by the Supreme Court in SLP (C) No.3699 of 2016 titled “**State of Haryana and others Vs. Haryana Food and Supplies Field Staff Association and others**”

and has been concededly followed by various Coordinate Benches of this Court and reference to which may not be necessary though the said judgment has been relied upon by learned counsel for the petitioner.

6. In the present case, concededly delinquency attributed to the petitioner pertains to an incident which took place during the year 2009-2010 though neither from the charge-sheet nor even otherwise from the record appended with the writ petition, exact date is coming forth.

7. Be that as it may, since the charge-sheet itself states that the so called irregularities committed by the petitioner for the year 2009-2010 during the appointment in District Jind and the petitioner since retired on 30.06.2012, the charge-sheet dated 28.01.2013 (Annexure P-20) is clearly issued not only after the retirement but also after almost 4 years of the alleged delinquency. The same, therefore, cannot be sustained and is accordingly quashed. All consequential benefits to which may have been withheld owing to the pending charge-sheet are directed to be released along with interest @ 6% per annum.

8. Disposed of accordingly.

(ARUN MONGA)
JUDGE

May 2, 2022
vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No