

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

(116)

CWP-2601-2023

Date of decision :-09.02.2023

Amarnath

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.S.Sahu, Advocate
for the petitioner.

...

SUVIR SEHGAL, J (ORAL)

By way of present writ petition, petitioner has sought issuance of a writ in the nature of certiorari for setting aside the impugned memorandum of charge sheet dated 08.08.2022, Annexure P-4, issued by respondent No.2 in violation of Haryana Civil Services (Punishment and Appeal) Rules, 2016 (for short "the 2016 Rules").

Factual matrix leading to the filing of the petition is that the petitioner joined as a Clerk with the Department of Scheduled Castes and Backward Classes, Haryana, on 16.04.1986. He was promoted to the post of Accountant-cum-Clerk in 1997 and as Tehsil Welfare Officer in the year 2009. He was served with an impugned charge sheet, Annexure P-4, on the allegation that by preparing fake documents, he had released Rs.1,02,000/- to Smt. Raj Kumari for the marriage of her daughters under

the Chief Minister Marriage Shagun Scheme and in connivance with an middleman withdrew Rs.92,000/- and the balance Rs.10,000/- was given to Smt. Raj Kumari. Petitioner submitted reply dated 17.08.2022, Annexure P-5, to the charge sheet. He retired from service on attaining the age of superannuation on 07.10.2022 and an Enquiry Officer has been appointed by order dated 25.11.2022 to hold a departmental enquiry under Rule 7 of the 2016 Rules.

By placing reliance upon a judgment of this Court in ***Kartar Singh Versus Union of India 1997 (2) RSJ 680***, counsel for the petitioner contends that as the petitioner has been allowed to retire, the master and servant relationship between the petitioner and the respondents, has come to an end and, therefore, no disciplinary action can be taken against him. Reliance has also been placed by the counsel upon judgment of this Court in ***Mukesh Sharma Versus Haryana Agro Industries Corporation and another 2020 (2) PLR 337***. Counsel has further contended that the inquiry had been conducted into the allegations and by report submitted on 19.04.2022, Annexure P-3, it was found that the petitioner had acted bonafidely and as the applicant-Raj Kumari had deposited the money back, no financial loss has been caused to the Government.

I have considered the submissions addressed by the counsel for the petitioner.

No doubt, petitioner has retired during pendency of the charge sheet, but by virtue of the provision contained in Rule 12 (2) (a) of the Haryana Civil Services (Pension) Rules, 2016, departmental proceedings can continue after the retirement of an employee. The Rule

deserves to be noticed and is reproduced as under:-

“12. Right of Appointing Authority to withhold or withdraw pension.

(1) XX XX XX

(2) (a) The departmental proceedings referred to in sub-rule (1), if instituted while the Government employee was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government employee, be deemed to be proceedings under this Rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service.

XX XX XX XX.”

Departmental proceedings had commenced and charge sheet stood served upon the petitioner prior to his retirement. By virtue of the above reproduced provision, the departmental proceedings shall continue even after the retirement and shall be deemed to have been initiated during the service tenure of the petitioner. A Full Bench of this Court in ***Dr. Ishar Singh Versus State of Punjab 1994 (3) RSJ 543***, which has been followed in ***Danpath Singh Ranga Versus State of Haryana and others, 2010 (1) RSJ 459***, while considering the provision of Rule 2.2 (b) of Punjab Civil Service Rules, Volume II, which a pari materia has inter alia upheld the Government’s right to continue with the disciplinary proceedings after the superannuation of an employee.

In so far as the judgment of a co-ordinate Bench of this Court in *Kartar Singh*'s case is concerned, suffice it to say is that no provision was brought to the notice of the Court from where it could be inferred that there was any provision for the continuation of the disciplinary proceedings after retirement. Furthermore, the Court came to the conclusion that despite the pendency of the charge sheet, the petitioner was allowed to voluntarily retire from service with permission of the authorities and in such a situation, the disciplinary proceedings initiated before his retirement could not continue. The question for consideration in *Mukesh Sharma*'s case (*supra*) was slightly different. The Court was dealing with a situation, where a charge sheet had been served upon an employee after more than four years of the incident and by placing reliance upon sub-rule (ii) to Rule 2.2 (b), this Court found that as there was an embargo in the initiation of the proceedings after four years of the event. Still further, in so far as the report, Annexure P-3, is concerned, the same does not absolve the petitioner. On the basis of the fact that the amount stood deposited, a conclusion was reached that as there was no financial loss to the Government, the complaint deserves to be given a closure.

In view of the above discussion, this Court is of the view that the petition is devoid of merit and is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

09.02.2023
Pardeep

Whether speaking/reasoned	Yes
Whether reportable	Yes