

2023:PHHC:038953

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

CWP-9927-2019

Date of decision : 09.03.2023

Balbir Singh Sidhu**..... Petitioner****versus****Punjab State Power Corporation Ltd. and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Harsh Aggarwal, Advocate
for the petitioner.

Mr. Arav Gupta, Advocate
for the respondents-PSPCL.

PANKAJ JAIN, J. (Oral)

Petitioner prays for writ in the nature of certiorari seeking quashing of the charge-sheet dated 15.10.2018 (Annexure P-7).

2. Counsel for the petitioner submits that while petitioner was posted as Additional Superintending Engineer, over payment of 93 transformers was made to a Contractor in the year 2010. As soon as the mistake was discovered, the over payment was recovered alongwith interest @ 13% per annum. Post aforesaid incident, the petitioner earned promotions and finally retired on attaining the age of superannuation on 30.04.2018. It is only thereafter that charge-sheet dated 15.10.2018 was issued vide P-7 related to incident of the year 2010-11.

3. Counsel for the petitioner relies upon Rule 2.2(b) of Punjab Civil Services Rule (Vol.II) to submit that such departmental proceedings after retirement cannot be initiated qua incident prior to 04 years from the date of charge-sheet. The charge-sheet having been issued in the teeth of bare provisions of law cannot be sustained.

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4. Per contra, Mr. Gupta does not dispute the aforesaid factual situation borne out from the record. However, he submits that the proceedings were initiated vide R-2 on 28.06.2017 i.e. while the petitioner was still in service.

5. I have heard counsel for the parties and have gone through the records of the case.

6. The issue as to when the proceedings are deemed to have been initiated is no more *res integra* and has been well answered by Apex Court in the case of '*U.O.I. vs. K.V. Jankiraman*' reported as 1991(4) SCC 109. In view of law laid down in Jankiraman's case (supra), the proceedings cannot be held to be initiated in the year 2017 but shall be deemed to be initiated on the day charge-sheet was issued i.e. on 15.10.2018 which definitely is post retirement of the petitioner.

7. Counsel for the respondent also is not in a position to dispute the fact that the incident relates to the year 2010-11 and thus the action would be in direct conflict with the bare provision as contained in Rule 2.2(b).

8. In view of the aforesaid fact, the present writ petition is allowed and the charge-sheet dated 15.10.2018 (P-7) is hereby quashed.

9. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

09.03.2023

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Whether speaking/reasoned : Yes

Whether Reportable : No