

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

**CWP No.14038 of 2018(O&M)
Date of Decision: 25.05.2023**

Kuldeep Singh

.....Petitioner

Vs

State of Haryana and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. A.P. Bhandari Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Himanshu Arora, Advocate and
Mr. Kunal Gupta, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari, quashing the charge-sheet dated 23.02.2017 issued by the respondent No.2, proposing initiation of disciplinary proceedings against the petitioner under Rule 2.2(a) of the Punjab Civil Service Rules, Volume-II read with Regulation 7 of the HSEB

(P&A), Regulation 1990.

[2]. The petitioner was appointed as Lower Division Clerk in the year 1974 in the Erstwhile Haryana State Electricity Board and was promoted as Upper Division Clerk in the year 1986 after passing a departmental test. Thereafter, the petitioner was promoted to the post of Assistant in the year 1986 itself and further promoted to the post of Dy. Superintendent and ultimately retired on 31.07.2006 on attaining the age of superannuation.

[3]. During the service tenure of the petitioner, he was never charge-sheeted and his service tenure remained unblemished. The Erstwhile Haryana State Electricity Board was divided into different parts known as HVPNL, DHBVNL, UHBVNL and HPGCL. Before his retirement, the petitioner was allocated in the HVPNL, from where he had retired on 31.07.2006. HVPN Power Training Institute known as HPTI was registered under the Societies Registration Act, 1860 with the office of Registrar of Firms and Societies, Haryana having its own Rules and Regulations. The Governing Council of the HPTI has approved its organizational structure.

[4]. The petitioner was appointed as Accountant in HPTI on 14.06.2007 on contract basis having fixed salary for a period of six months. The services of the petitioner were availed from time to time by way of re-engagement and his salary was also

suitably increased. The petitioner was re-engaged as Accountant-cum-Head Clerk in HPTI w.e.f. 01.01.2013 to 30.06.2013 with a fixed salary of Rs.10,000/- per month. The petitioner had completed his term with HPTI on 30.06.2013.

[5]. The charge-sheet was issued to the petitioner on 23.02.2017 by HVPNL alleging that the petitioner was responsible for handling all the answer sheets of departmental accounts examination held in September, 2012. The petitioner was charge-sheeted for the allegations that he was responsible for the irregularities, which were pointed out by the Committee of Section Account Officer as well as Committee of Vigilance Wing as per complaint filed by one Anil Kumar, Divisional Accountant.

[6]. Learned counsel for the petitioner submits that there was no relationship between the petitioner and HVPNL after his retirement. The charge-sheet has been issued in respect of an incident, which had occurred more than 4 years prior to the date of issuance of charge-sheet and such an action is not legally sustainable in view of Rule 2.2(a) of Punjab CSR Volume II. Even otherwise, Regulation 7 of the HSEB (P&A) Regulation 1990, does not cover the ambit of Rule 2.2(a) of Punjab CSR Volume II and has not been adopted by the HPTI. HPTI is a Society registered under the Societies Registration Act, 1860 with the office of Registrar of Firms and Societies, Haryana vide

Registration No.28 of 2007-08. The petitioner cannot be charge-sheeted under the provisions of Rule 2.2(a) of the Punjab CSR Volume II read with Regulation 7 of the HSEB (P&A) Regulation 1990.

[7]. The factual position of the case could not be rebutted by the respondents. As per stand taken by the respondents, Rule 2.2(a) of the Punjab CSR Volume II is relatable to the future good conduct of the pensioner, for whom the appointing authority reserves the right of withholding the pension or part thereof, if the pensioner is found guilty of serious and grave misconduct.

[8]. There is no such proposition in the present case. Moreover, it has not been shown as to how Rule 2.2(a) of the Punjab CSR Volume II is made applicable, particularly when nothing has been brought on record as to whether such Rule was adopted by the respondent-Society or not. The stand taken by the respondents in terms of para No.8 of the written statement is not attracted to the present case for the reasons mentioned hereinabove.

[9]. In view of above, this writ petition is allowed. Impugned charge-sheet dated 23.02.2017 issued by the respondent No.2, proposing initiation of disciplinary proceedings against the petitioner under Rule 2.2(a) of the Punjab Civil Service Rules, Volume-II read with Regulation 7 of the HSEB (P&A),

Regulation 1990 is quashed. The petitioner is held entitled to all consequential relief after his retirement in accordance with law.

25.05.2023	(RAJ MOHAN SINGH)
<i>Prince</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No