

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

CWP-7774-2016

Reserved on : 24.02.2023

Pronounced on : 26.04.2023

Ashok Kumar Gupta

..... Petitioner

versus

Punjab State Warehousing Corporation

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. J.P. Rana, Advocate
for the petitioner.

Mr. Anil Rana, Advocate
for the respondent.

PANKAJ JAIN, J. (Oral)

Challenge is to the recovery notice dated 20.06.2014 (P-1) issued by the respondent to the petitioner.

2. Petitioner who was working as Godown Assistant with the respondent-Corporation retired on attaining the age of superannuation on 31.03.2012. He was served with notice of recovery of Rs.7,09,133. It is the said recovery notice which has been impugned in the present writ petition claiming the same in teeth of Rule 2.2(b) of the Punjab Civil Service Rules, Vol-II, Part-I.

3. Per contra, respondent in his written statement have taken a specific stand that the petitioner was served with the chargesheet dated 15.09.2011 for causing loss to the Corporation on account of embezzlement of rice for the crop years 2009-10 and 2010-11. Thus, on the day the petitioner retired i.e. 31.03.2012, the proceedings were pending against the petitioner. In the inquiry, the petitioner alongwith other employees was

held responsible for causing loss to the Corporation and accordingly he was proceeded against by applying 50% cut in his pension for recovery of the said amount. It has been claimed that vide impugned notice dated 09.07.2014, the petitioner was granted opportunity to respond as the recovery is a minor penalty. Vide order dated 09.07.2014, retiral benefits were withheld till the decision on the pending chargesheet/cases against the petitioner. Moreover, the cause of action to initiate proceedings against the petitioner accrued only in the year 2010. Resultantly, there being no breach of mandatory provision of law as contained in Rule 2.2(b), the present writ petition is without merit.

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

5. It will be apposite to peruse Rule 2.2(b) of Punjab Civil Service Rules, Vol-II, Part-I which is relevant for proper adjudication of the present case:-

“2.2 (b) Such departmental proceedings, if not instituted while the officer was in service whether before his retirement or during his re-employment:-

(i) shall not be instituted save with the sanction of the Government

(ii) shall not be in respect of any event which took place not more than four years before such institution; and

(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his service”.

6. The said provision is no more *res integra* and has been well interpreted by Division Bench of this Court in '**Narender Dev Sharma vs. State of Punjab and another**' reported as **1996(2) SLR 270**', wherein the Division Bench held as under:-

“xx xx xx

A look at the above-quoted Rule shows that the Government is empowered to withhold pension or a part thereof and recover from the pension payable to an employee the pecuniary loss which may have been suffered by the Government due to grave misconduct or negligence committed by the Government servant during the course of employment. Such an action can be taken on the basis of a departmental inquiry which may have been initiated against the concerned employee before his retirement and which may be pending at the time of his retirement. The departmental inquiry initiated against an employee does not come to an end on his retirement but by operation of the statute it is deemed to be continuing even after his retirement. At the same time, the competent authority is empowered to initiate disciplinary inquiry against the employee after retirement provided that such inquiry pertains to an incident of four years prior to the date of initiation of the inquiry and the sanction is given by the competent authority for such initiation.”

7. In view of clear proposition of law as laid down in **Narender Dev Sharma's case (supra)**, this Court does not find that there is any reason to hold that the action of respondent is in violation of Rule 2.2(b). Counsel for the petitioner has not raised any other argument.

8. Consequently, the present writ petition is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

26.04.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No