

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-26193-2023

Date of decision : 22.11.2023

Balwinder Singh

... Petitioner

Versus

The State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vivek Singla, Advocate and
Ms.Urvashi Singh, Advocate
for the petitioner.

Mr.Ferry Sofat, Addl.A.G. Punjab
for the respondents.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the charge sheet dated 23.06.2023 (Annexure P-2) issued by respondent no.1 to the petitioner and the impugned order dated 04.09.2023 (Annexure P-4).

2. Learned counsel for the petitioner has submitted that in the present case, the petitioner had already retired, prior to the issuance of the charge sheet and the alleged incident is also 4 years prior to the date on which the charge sheet has been issued and thus, the proceedings initiated against the petitioner are barred under Rule 2.2(b) of the Punjab Civil Services Rules, Volume-II. It is submitted that the said plea has been specifically raised in the reply filed to the said charge sheet but however, the

authority did not take into consideration the said plea and has further

proceeded to appoint an enquiry officer. It is further submitted that the impugned order dated 04.09.2023 deserves to be set aside and the competent authority be directed to reconsider the matter in the light of the reply filed by the petitioner to the charge sheet moreso, on the aspect of Rule 2.2(b).

3. Learned State Counsel appearing on behalf of the respondents has fairly stated that the competent authority of the respondent-State would reconsider the matter and would pass a speaking order with respect to the plea based on Rule 2.2(b) which has been raised in the reply (Annexure P-3) within a period of four weeks from the date of receipt of certified copy of the present order and further proceedings would be kept in abeyance till a speaking order considering the plea of Rule 2.2(b) is passed by the competent authority. It is submitted that the order dated 04.09.2023 be set aside.

4. Keeping in view the abovesaid facts and circumstances and fair stand taken by learned State Counsel, the present Civil Writ Petition is partly allowed and the order dated 04.09.2023 is set aside and direction is issued to the competent authority of the respondent-State to pass a speaking order within a period of four weeks from the date of receipt of certified copy of the present order on the aspect that the proceedings are barred under Rule 2.2(b), as raised by the petitioner in his reply (Annexure P-3) and till the time the said decision is taken, the proceedings before the Enquiry Officer shall remain stayed.

5. It is made clear that this Court has not opined on the merits of the case and it would be open to the competent authority of respondent-State to take an independent decision on the said aspect, in accordance with law.

(VIKAS BAHL)
JUDGE

November 22, 2023.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No