

[153] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26735-2023

Date of Decision :29.11.2023

Shashi Bala Puri

...Petitioner

versus

State of Punjab and others

....Respondents

Coram : **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

Present : Mr. Surinder Gandhi, Advocate for the petitioner.

SANJEEV PRAKASH SHARMA, J. (ORAL)

[1] The petitioner by way of this writ petition challenges the chargesheet issued to the petitioner after retirement, alleging that in terms of the second proviso to Rule 2.2 (b) (2), the departmental proceedings could not have been further undertaken as they were relating to an event which took place more than four years before such institution.

[2] Learned counsel for the petitioner has unable to show that more than four years have expired before such institution.

[3] On the other hand, this Court finds that the chargesheet was issued to the petitioner on 29.01.2020. She retired on 31.01.2016. The chargesheet refers to a case relating to one Manjit Singh, who was served with a chargesheet on 24.05.2006 and he submitted the reply to the chargesheet on 20.07.2017 and he accepted the allegations leveled in the chargesheet and demanded that he should be given back the pensionary benefits and his file remains pending.

[4] The Accounts Branch has alleged that the appeal was decided

of a civil suit which came to the knowledge of the department much later and on account of the petitioner not informing about the decision of the appeal, the department suffered an additional burden of Rs.4,91,229/-.

[5] Learned counsel for the petitioner submits that the date is to be for consideration in terms of Para 2.2 (b) (2) which should be the date when the appeal was decided in the Civil Court, as the appeal was decided on 28.01.2015, the period of four years has left from the date of institution.

[6] I have considered the said submission.

[7] Rule 2.2(b) (2) reads as under:-

“Such departmental proceedings, if not instituted while the officer was in service whether before his retirement or during his reemployment –

- (i) shall not be instituted save with the sanction of the Government;*
- (ii) Shall not be in respect of any event which took place 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 proceeding in which an order of dismissal from service could be made in relation to officer during his service. ”*

[8] For the purpose of the rule, explanation provides that a departmental proceeding shall be deemed to be instituted on the date on which the statement of charges is issued.

(a) “ A departmental proceeding shall be deemed to be instituted on the date on which the statement of

charges is issued to the officer or pensioner, or if the officer has been placed under suspension from an earlier date on such date;”

[9] While the appeal in the civil suit was decided on 28.01.2015, the cause of action for initiating the chargesheet has arisen only after the reply was filed by the concerned delinquent Manjit Singh on 20.07.2017. The Accounts Branch has found out that the decision of the appeal was never informed to the branch, resulting in causing monetary loss to the department. The monetary loss is therefore the date which is to be assessed from the date of knowledge and the contention of four years expiry in terms of the aforesaid rule would not have any application to the present facts of the case.

[10] The present writ petition thus fails and accordingly dismissed. The judgments cited by the learned counsel for the petitioner namely ‘**Punjab State Power Corporation Limited, Patiala and others** versus **Atma Singh Grewal**’, (2014) 13 SCC 666, ‘**Baldev Singh** versus **State of Punjab and others**’, 2008(4) SCT 652, ‘**Sub Inspector Puran Chand (Retd.)** versus **State of Punjab and others**’, 2000(3) SCT 515, ‘**L.B. Gupta** versus **Punjab State Electricity Board, Patiala**’, 2002 (1) SCT 285 and ‘**Raj Pal** versus **State of Haryana and others**’, CWP-5842-2022 decided on 07.12.2022, will have no application to the present facts of the case.

[11] After dictation of the judgment, learned counsel for the petitioner insists that he should be heard and insists that the Court should

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the approach and practice of the concerned lawyer. However, this Court does not want to say anything further but deprecate the practice.

(SANJEEV PRAKASH SHARMA)
JUDGE

29.11.2023
'Rajneesh'

Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No