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

CWP-399-2024

Date of Decision: 10.01.2024

PARAMJIT KAUR

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. S.K. Arora, Advocate and
Mr. Lovish Arora, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of charge sheet dated 15.06.2023 (Annexure P-3) and order dated 12.12.2023 (Annexure P-5) whereby Enquiry Officer has been appointed.

2. The petitioner joined respondent Department as Steno on 06.10.1988. The petitioner on account of her hard work was promoted as Senior Assistant on 20.11.2006 and she retired on attaining the age of superannuation on 31.03.2020. The respondent has issued charge sheet dated 15.06.2023 with respect to alleged act committed on 11.05.2017.

3. Learned counsel for the petitioner submits that as per Rule 2.2 (b) of the Punjab Civil Services Rules, Volume II, no departmental proceedings against a retired employee can be initiated in respect of an event which took place more than 4 years from the date of institution.

The petitioner retired on 31.03.2020 and charge sheet has been issued on 15.06.2023 with respect to an event which took place on 11.05.2017. Charge sheet has been issued after 4 years from the date of alleged incident, thus, it is contrary to Rule 2.2 (b) of the Punjab Civil Services Rules.

4. Learned State counsel expressed his inability to controvert the applicability of aforesaid rule to present case.

5. Rule 2.2 (b) of the Punjab Civil Services Rules is reproduced as below:

“(b) The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specific period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if in a departmental judicial proceedings, the pensioner is found guilty of grave misconduct or negligence, during his service including service rendered on re-employment after retirement. Provided that:-

1) Such departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer, be deemed to be a proceeding under this article and shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service.

2) 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 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 the officer during his service.

3) No such judicial proceedings, if not instituted while the officer was in service, whether before this retirement or during his re-employment shall be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution;

Explanation:-For the purpose of this rule

a) a departmental proceedings 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; and;”

6. From the perusal of above quoted rule, it is quite evident that departmental proceedings cannot be instituted after 4 years from the date of incident in case of a retired employee. By way of explanation, it has been clarified that departmental proceedings shall be deemed to be instituted on the date on which the statement of the charges is issued to the officer or pensioner. The petitioner is a pensioner and she retired on 31.03.2020. The alleged incident took place on 11.05.2017. The charge sheet was issued on 15.06.2023 i.e. date of institution. The alleged

incident clearly took place prior to 4 years from the date of charge sheet, thus, case of the petitioner is squarely covered by aforesaid rule.

7. In the wake of above discussion and findings, the present petition deserves to be allowed and accordingly allowed. The charge sheet dated 15.06.2023 (Annexure P-3) and order dated 12.12.2023 (Annexure P-5) are hereby set aside.

(JAGMOHAN BANSAL)
JUDGE

10.01.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>