

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

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**CWP-1229-2021 (O&M)
Date of Decision:07.03.2024**

Surinder Kumar Bhatia

.....Petitioners

Versus

Uttar Haryana Bijli Vitran Nigam and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Naveen Daryal, Advocate for the petitioner.

Mr. Ashish Yadav, Advocate for respondents.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing both the impugned orders dated 08.07.2017 (Annexures P-1 and P-2).

2. The learned counsel for the petitioner submitted that the petitioner was working as Junior Engineer (Fields) in the office of respondents-Uttar Haryana Bijli Vitran Nigam (hereinafter to be referred to as 'Nigam') and he retired on attaining the age of superannuation on 31.01.2013. After his retirement two charge-sheets were served upon the petitioner which have been so described in the reply filed by the respondents-Nigam in para No.2. The first charge-sheet dated 16.06.2015 was issued against the petitioner on the basis of allegations that he was negligent in giving information pertaining to some compensation award. The second charge-sheet dated 23.12.2016 issued against the petitioner was with regard to allegations that he failed to lodge the insurance claim with the insurance company pertaining to the event of the year of 2010-11. He

further submitted that both the charge-sheets were issued proposing to inflict a major punishment upon the petitioner and they have been issued under Regulation 7 of the Uttar Haryana Bijli Vitran Nigam Limited (HSEB) Employees (Punishment & Appeal) Regulation, 1990 read with Rule 2.2 (b) of Civil Services Rules. While referring to regulation (Annexure P-5) he submitted that Regulation 7 pertains to inflicting of major penalties and after issuance of chargesheets for inflicting major punishment, no departmental enquiry has been conducted nor any enquiry officer was appointed and thereafter the minor punishment in both the cases have been inflicted upon the petitioner for stoppage of annual increment without cumulative effect and thereby recovery of an amount of Rs.53,568/- was directed to be effected from the retiral benefits of the petitioner.

3. He further submitted that firstly after the retirement of the petitioner, recovery could not be effected from the petitioner because in both the charge-sheets there was no allegation of any loss being caused to the Corporation. He further submitted that once the charge-sheets have been issued under Rule 2.2 of the Punjab Civil Services Rules which are now in the Haryana Civil Services Rules as Rule 12.2 (b) which were passed in the year 2016 and adopted by the respondents-Nigam in the same year without any pecuniary loss to the Corporation, the same could not be recovered. He submitted that even otherwise also the aforesaid charge-sheets were issued after the retirement of the petitioner and pertaining to the events which were more than 04 years preceding the issuance of the charge-sheets and in view of the aforesaid Rule 2.2/12.2, the same could not have been issued to the petitioner. He also submitted that apart from

the above admittedly charge-sheets were issued with a proposal to inflict a major punishment. Thereafter a minor punishment was inflicted upon the petitioner. He further submitted that even otherwise also as per the order it has been so directed that the increment of the petitioner be stopped whereas the petitioner had already retired and he was not drawing any salary nor any increment and rather he was drawing only pension and therefore he submitted that stoppage of an increment could not have been implemented or given effect to because he is not earning any increment and it is not a case in the punishment order that the increment is to be stopped with retrospective effect and therefore otherwise also the order has to be set aside with regard to the recovery which otherwise has been stayed by the Court by passing of an interim order dated 19.01.2021.

4. On the other hand, learned counsel for the respondents submitted that so far as the two charge-sheets which have been so stated in the reply are concerned so far as the first charge-sheet which is dated 16.06.2015 is concerned, the same was pertaining to an event which was less than 4 years preceding the issuance of charge-sheet and he also candidly submitted that so far as the second charge-sheet dated 23.12.2016 is concerned, the same was more than 04 years preceding the issuance of charge-sheet and the same could not have been issued to the petitioner. He further submitted that so far as the first charge-sheet dated 16.06.2016 is concerned, the petitioner was liable.

5. I have heard learned counsel for the parties.

6. It is a case where the recovery was sought to be effected from the petitioner to the tune of Rs.53,568/- pertaining to the two charge-sheets.

Details of charge-sheets have been so mentioned in para No.2 of the reply

filed by respondents-Nigam. Learned counsel for the respondents-Nigam candidly submitted that so far as the second charge-sheet is concerned, it was hit by the Rule 2.2/12.2 of the Haryana Civil Services Rules and therefore no further detailed discussion is required in the second chargesheet.

7. Therefore the dispute is with regard to the first charge-sheet dated 16.06.2015 and according to the learned counsel for the respondents-Nigam it was within a period of four years from the date of incident. A perusal of the punishment order 08.07.2017 (Annexure P-1) would show that it has been so directed that the punishment would be stoppage of one increment without cumulative effect which is otherwise a minor punishment. The petitioner has already retired and he is not earning any increment nor does the order say that the increment will be stopped with retrospective effect and therefore this Court is of the view that otherwise also the order of stoppage of increment after the retirement of the petitioner, cannot be sustained. Even otherwise also as per the reply filed by the respondents, action has been taken under Rule 2.2 (b) of the Punjab Civil Services Rules, which is equivalent to Rule 12.2 of the Haryana Civil Services Rules. When the aforesaid rule is pressed/adopted into service then it has to be established that if there was a pecuniary or monetary loss caused by the petitioner then the amount can be recovered after the retirement of the petitioner. Since the petitioner had already retired in the year 2013 and there is no allegation of monetary loss itself, no such punishment order could have been passed and no recovery could have been effected from the petitioner. Even otherwise also, chargesheet was for inflicting major punishment but enquiry has been conducted and in the

absence of the same, punishment order cannot sustain.

8. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order at Annexures P-1 and P-2 are hereby set aside. It is directed that no recovery for the aforesaid amount of Rs.53,568/- shall be effected from the petitioner.

(JASGURPREET SINGH PURI)

JUDGE

07.03.2024

shweta

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No