



CWP-5890-2024 (O&M) & connected cases
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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

294 (04 cases)
301 (01 case)

CWP-5890-2024 (O&M)
Date of Decision :17.12.2024

Avinash Khanna

Versus

State of Punjab

...Petitioner

...Respondent

CWP-5919-2024

Kewal Krishan

Versus

State of Punjab

...Petitioner

...Respondent

CWP-6045-2024

Raj Kumar Garg

Versus

State of Punjab

...Petitioner

...Respondent

CWP-6307-2024

Baljeet Singh

Versus

State of Punjab

...Petitioner

...Respondent

CWP-12706-2024

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Satwinder Singh Randhawa

...Petitioner

Versus

State of Punjab

...Responden

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sunny Singla, Advocate with
Ms. Riti Aggarwal, Advocate for the petitioner(s).

Mr. Arun Gupta, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

Reply filed on behalf of the respondents in the respective petitions in the Court today is taken on record.

In the present petitions, the grievance being raised by the petitioners is that though the petitioners have retired from service but after their retirement, they have been served a charge sheet by the respondents and that too for an incident which is four years old from the date when the charge sheet was issued hence, the respondents did not have the jurisdiction under the rules governing the service so as to issue the said charge sheet to the petitioners and hence, the said charge sheet (Annexure P/2) is liable to be set aside.

Learned counsel for the respondents submits that keeping in view the retirement of the petitioners, the charge sheet has been served before the expiry of four years from the date of retirement and hence, the jurisdiction existed with the respondents to issue the charge sheet to the petitioners.

I have heard learned counsel for the parties and have gone

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through the record with their able assistance.

After the retirement, the charge sheet can only be served under Rule 2.2 (b) of the Punjab Civil Service Rule, Volume-II according to which, though a charge sheet could be served to a retired employee but the same has to be with regard to the allegations which are not 04 years old at the time of issuance of charge sheet. Rule 2.2.(b) of the Punjab Civil Service Rule is as under:-

“(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 specified 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 or judicial proceeding, the pensioner is found guilty of grave mis-conduct or negligence during the period of his service, including service rendered upon 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 proceedings in which

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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 his 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; and

The Public Service Commission should be consulted before final orders are passed. Explanation.—For the purpose of this rule—

(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 and

(b) a judicial proceeding shall be deemed to be instituted—

(i) in the case of a criminal proceeding, on the date on which the complaint or report of the police officer on which the Magistrate takes cognizance, is made; and

(ii) in the case of a civil proceeding, on the date of presentation of the plaint in the court.”

Learned counsel for the respondents does not dispute the provisions of Rule 2.2(b) but submits that 04 years period is to be seen from the date of incident and not from the date of retirement.

A bare perusal of the above said rule would show that as per Rule 2.2 (b) (iii) in case, no departmental proceeding were initiated during the service, the same can only be initiated in respect of the cause of action which arose or an event which took place within a period of four years before initiation of such proceedings.

In the present case, the charge sheets have been served upon the petitioners on 03.03.2023 (Annexure P/2) in respect of the allegations, which relates to period from 2013 to 2018. Even if, 2018 is assumed as the year of

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the incident, then also, a period of 04 years was already elapsed when the charge sheet was issued qua the incident for which the petitioners have been charge sheeted.

Learned counsel for the respondents has not been able to dispute the said fact.

Keeping in view the above, the jurisdiction to serve the charge sheet upon the petitioners in respect of the allegations which are more than 04 year old on the date of issuance of charge sheet, no charge sheet could have been served under Rule 2.2 (b) (iii) of the Punjab Civil Services Rules hence, the charge sheet issued to the petitioner(s) is accordingly set aside having been issued without any jurisdiction.

Present petitions are disposed of in above terms.

Civil miscellaneous application pending, if any is also disposed of.

A Photocopy of this order be placed on the file of connected cases.

December 17, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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