

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2024:PHHC:061283-DB

(108) LPA-1103-2024 (O&M)
Decided on : 03.05.2024

Baljeet SinghAppellant(s)
Versus
State of Punjab and othersRespondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI

Present:- Mr. Sandeep Singh, Advocate for the appellant (s).
Mr. Saurav Khurana, Addl. AG, Punjab.
Mr. Munish Gupta, Advocate for the respondent-PSPCL.

G.S. Sandhawalia, Acting Chief Justice (Oral)

Consideration in the present letters patent appeal is sought of the judgment dated 21.02.2024 passed by the learned Single Judge in CWP-1372-2024, whereby the learned Single Judge has declined to quash the charge-sheet dated 30.11.2023 (Annexure P-12), which is the day when the appellant also superannuated.

2. The case of the appellant was accordingly dealt in detail while referring to the concerned provisions by the learned Single Judge that merely because the charge-sheet was received by the employee on 04.12.2023, the argument that the employer-employee relationship got snapped was rejected, by keeping in mind provisions of Rule 2.2 of the Punjab Civil Services Rules Vol.II, which provides 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, on account of misconduct or negligence. The time bar as such is provided under Rule 2 (b) (2)(ii) that such departmental proceedings shall not be instituted in respect of any event which took place more than four years before such institution.

3. The learned Single Judge while dismissing the writ petition in *limine* had noticed the various endorsements made in the covering letter and the fact that letter was issued at Patiala and was to be served upon the writ petitioner and served only on 04.12.2023, since apparently he was posted at Roopnagar. The learned Single Judge had also noticed that an effort was made to serve the writ petitioner and rather responsibility was fixed upon the other officials that in case of non-communication action would be taken against them. Apparently, keeping in view the logistics and the distance involved, service might have not been effected on the same day, though the charge-sheet was issued on 30.11.2023 when he was still in service. The fact remains that from the record and it is clear from the allegations which have been made qua large number of unauthorized connections of approximately 183 in number, the charge-sheet was issued wherein reference had been made of 73 such connections which were ranging from the year 2013 till the year 2022, as per the chart which has now been prepared in the writ petition. Thus, it is the argument of the counsel that 24 connections out of 73 connections were beyond the purview of 4 years.

4. It is also a matter of record that another charge-sheet dated 28.11.2023 had also been issued and CWP-28334-2023 had been filed challenging the said charge-sheet in which notice of motion had been issued,

vide order dated 16.12.2023 (Annexure P-16). It is, thus, apparent that the employer as such was gathering all the information, as to the number of unauthorized connections, which had been issued when the appellant was posted at Rampura Phool.

5. A perusal of Annexure A-1 would go on to show that even an FIR bearing No.59 dated 02.07.2022 under Sections 420, 467, 468, 473, 120-B PC was registered at Police Station Phool, District Bathinda. An SIT had been constituted and investigating had been conducted by the SSP (PBI), Economic Offences and Cyber Crime, Bathinda. The complaint was filed in the year 2019 with the Human Rights Commission, Chandigarh regarding unauthorized tubewell connections. After conducting an enquiry by a team consisting of Additional Superintending Engineer, Technical Audit, Bathinda and Additional Superintending Engineer Enforcement, Bathinda, a report of 20 tubewell connections was prepared. As per office noting which is now sought to be highlighted there was a noting that action against a single officer was not justified and the matter needs to be deliberated in the BOD for final conclusion. The office noting further goes on to show that in fact a clarification was also sought from the appellant, but the same was not done and it was noticed that he was due to retire on 30.11.2023.

6. In such circumstances, we are of the considered opinion that the learned Single Judge was well within its right not to go into the issue. Rather it was for the appellant to file his reply to the charge-sheet to point out as to which of the charges could not have been issued against him being beyond the prescribed period under Rule 2.2 (b) of the Punjab Civil Services Rules. The learned Single Judge has relied upon plethora of judgments to come to the

conclusion that the departmental proceeding ordinarily should not be quashed and it is only in exceptional circumstances power of judicial review would be exercised. Relevant judgments which had been relied upon by the learned Single Judge are **State of Madhya Pradesh Vs. Onkar Chand Sharma, (2001) 9 SCC 171, The Special Director and another Vs. Mohd. Ghulam Ghouse and another, 2004(1) SCT 671 and Coal India Limited and others Vs. Saroj Kumar Mishra, (2007) 5 Scale 724.**

7. The Apex Court in the case of **State of Punjab VS. V.K. Khanna, AIR 2001 Supreme Court 343** has specifically held that until there is malafides, the writ Court would not exercise its jurisdiction. The above sequence of events which have been noted above would go on to show that it is not a case of malafides, rather apparently it is a case of sanctioning large number of unauthorized tubewell connections, which had led to the issuance of the charge-sheet.

8. In such circumstances, we are of the considered opinion that the judgment of the learned Single Judge declining to quash the charge-sheet does not suffer from any infirmity, which would warrant interference in the present letter patent appeal. The present appeal is hereby dismissed in *limine*.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

03.05.2024

Naveen

Whether speaking/reasoned :

Yes

Whether Reportable :

No