



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-12564-2021 (O&M)
Date of Decision : 22.08.2024

Raghubir Singh

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. H.C. Arora, Advocate
for the petitioner.

Mr. Satnam Preet Singh, DAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present petition, the challenge is to the charge-sheet which has been issued to the petitioner on 04.06.2006 and the subsequent proceedings, including the inquiry report, the order of punishment dated 29.12.2014 as well as the revised punishment order dated 21.12.2018.

2. Learned counsel for the petitioner argues that petitioner retired from service on attaining the age of superannuation on 29.02.2004. After a period of more than two years four months, a charge-sheet dated 04.06.2006 was served upon the petitioner with regard to the allegation which related to the period of 1998-1999. The petitioner filed the reply stating that the charge-sheet is without jurisdiction but as the disciplinary proceedings were being conducted jointly against 17 officers, the plea of jurisdiction raised by the petitioner was not decided and ultimately, the petitioner was held guilty



by the Enquiry Officer vide Inquiry Report dated 19.11.2007. Thereafter, vide order dated 29.12.2014 (Annexure P-4), the punishment of 10% cut in pension was imposed upon the petitioner, which order of punishment was later on modified vide order dated 21.12.2018 to 5% cut in pension. The petitioner is challenging the charge-sheet and the subsequent proceedings which have come into operation, including the order of punishment in the present petition.

3. Learned counsel for the petitioner argues that there is no jurisdiction with the respondent to issue the petitioner a charge-sheet on 04.06.2006 in respect of a allegation which was more than four years old as on 04.06.2006. Hence, any order of punishment passed on the basis of the said charge-sheet is nullity and, therefore, the charge-sheet along with the consequent proceedings, including the order of punishment, may kindly be set aside.

4. Learned State counsel submits that there were irregularities committed by the petitioner, which irregularities have already been established during the disciplinary proceedings and therefore, the petitioner has rightly been punished hence the writ petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. It is conceded fact that the petitioner was served a charge-sheet after two years of his retirement. The jurisdiction to serve a charge-sheet upon a retired employee is to be seen from the Rules governing the service.

The Rule 2.2 of the Punjab Civil Service Rules, Volume-II, Part-II, governs



the said aspect. The same is reproduced hereunder the the ready reference.

“Rule "2.2 (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 preceding, 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 an order of dismissal from service would be made in relation to the officer during his service.*
- (3) No such judicial proceedings, if not instituted while the officer 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; and The Public Service Commission should be consulted before final orders are passed.

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

(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."

(c)(1) Whether any departmental or judicial proceeding is instituted under clause (b) of rule 2.2 or where a departmental proceeding is continued under clause (i) of the proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, he shall be paid during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceedings, final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service up to the date of retirement or if he was under suspension on the date of retirement up to date



immediately preceding the date on which he was placed under suspension; but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and of final orders thereon.

The gratuity, if allowed to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of final orders by the competent authority."

Provided that where Departmental proceedings have been instituted under Rule 10 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 for imposing any of the penalties specified in clauses (i), (ii) and (iv) of rule 5 of the said rules, the payment of gratuity or death-cum-retirement, as the case may be, shall not be withheld.

- (2) *Payment of provisional pension made under sub-clause (1) shall be adjusted against the final retirement benefits sanctioned to such officer upon conclusion of the aforementioned proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension. or the pension is reduced or withheld either permanently or for a specified period.*

Note. The grant of pension under this rule shall not prejudice the operation of rule 6.4 ibid when final pension is sanction upon conclusion of the proceedings."

7. A perusal of the above reproduction would show that a departmental proceeding can be initiated against a retired employee, in case, at the time of serving of the charge-sheet, the incident for which, the departmental proceedings are initiated is not more than four years old.



the petitioner in the charge-sheet dated 04.04.2006 relates to the year 1998-99, which is more than four years old as on 04.04.2006. Learned counsel for the respondent has not been able to justify as to how the State had a jurisdiction to issue a charge-sheet on 04.04.2006 in respect of any allegation relating to the year 1998-99. Once, the factum that the allegations for which the chargesheet has been issued after retirement, are more than four years old as on 04.04.2006, the serving of the charge-sheet of the allegation alleged was beyond the jurisdiction of the respondent -State.

9. Further, this controversy has already been settled by this Court with regard to the jurisdiction of the State for initiating disciplinary proceedings against a retired employee while passing order in **CWP No. 25593 of 2021**, titled as “**Satwant Singh Gill Vs. State of Punjab and Others**”, decided on 08.08.2024, wherein it has been held that after, no charge-sheet can be served upon an retired employee with regard to an allegation which is more than four years old on the date when the charge-sheet is being issued. Hence, the claim of the petitioner is covered by the judgment in **Satwant Singh Gill's** case (supra). Learned State counsel has not been able to rebutt the principle of law noticed hereinabove to be applicable to the case of the petitioner.

10. Keeping in view the above mentioned facts, the charge-sheet and the consequent proceedings, including the inquiry report as well as the order of punishment dated 29.12.2014 and the revised punishment order dated 21.12.2018, are set aside. Any recovery which has been made by the State from the pension of the petitioner is directed to be refunded backto the



petitioner.

11. As, the charge-sheet was issued without jurisdiction, any recovery which has been made from the petitioner was also without jurisdiction hence, on the amount to be refunded to the petitioner, the petitioner will also be entitled for interest @ 6% per annum from the date the amount is deducted till the date the same is refunded. Let the order be complied within eight weeks from the date of receipt of certified copy of this order.
12. Present petition is allowed in the above terms.
13. All pending applications, if any, stand disposed of accordingly.

22.08.2024
Satyawar

(HARSIMRAN SINGH SETHI)
JUDGE

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