

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

CWP-16639-2020 (O&M)
Date of Decision:31.07.2024

Sajjan Singh
.....Petitioner

Versus

State of Haryana and Others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Vaibhav Narang, Advocate for the petitioner

Ms. Vibha Tewari, AAG Haryana

Mr. Jagtar Kureel, Advocate for respondent No.3

AMAN CHAUDHARY. J. (ORAL)

1. The challenge is made to a chargesheet issued to the petitioner, on the ground that incident alleged therein took place more than 4 years ago, thus the same is in contravention of Rule 2.2(b) of Punjab Civil Services Rules, Volume II, Part 1.
2. The petitioner retired as District Child Welfare Officer on 31.05.2015. A chargesheet came to be issued on 25.11.2019 against him on the allegations of he having got his pay wrongly fixed way back in the years 1994, 1997 and 2009, as also for withdrawing benefits of LTC and Travel Allowance etc. in 2013. The basis of the same was a complaint made by one Rashid, upon which, an audit report was submitted. This Court, while issuing notice of motion, stayed the operation of the impugned chargesheet on 09.10.2020. An FIR No.959 dated 12.11.2014 was also lodged against the petitioner on similar facts, the proceedings therein stand stayed by this Court vide order dated 30.10.2019 passed in CRM-M-43033-2017 filed by the

petitioner.

3. To move forward, it would be apposite to make a reference to Rule 2.2(b) *ibid*, relevant part whereof reads thus:

“2.2. Recoveries from pensions

- (a) xxx xxx
xxx
- (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) xxx xxx
xxx;

(2) Such departmental proceedings, if not instituted while the officer was in service whether before his retirement or during his re-employment–

(i) xxx xxx
xxx;

(ii) shall not be in respect of any event which took place more than four years before such institution; and

(iii) xxx xxx
xxx.
- (3) xxx xxx xxx
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)xxx xxx xxx”
4. The issue that arises is with regard to initiation of proceedings relating to an incident dating 4 years prior thereto, which does not require much labour, as the Division Bench illuminated the scope of Rule 2.2(b) *ibid*
- MOHIT
2024.08.01 10:57
I attest to the accuracy and
authenticity of this order/judgment

in the case of **Balldhir Singh vs. State of Punjab and others**¹, by relying on a catena of judgments rendered in *Puran Chand vs. State of Punjab*², *L.B Gupta vs. Punjab State Electricity Board*³, *R.C. Gupta vs. PSEB*⁴, *Gurdev Singh vs. State of Punjab*⁵ and *M.P. Goswami vs. State of Punjab*⁶, observed that, “A bare perusal of the aforementioned Rule makes it clear that Rule 2.2(b)(ii) places a complete embargo on holding of an enquiry against a retired employee for any event which has happened four years prior to the institution of enquiry. In other words, in case a departmental proceeding is to be initiated against an employee after his retirement, it cannot be in respect of an event, which has taken place more than four years prior to the date of the institution of inquiry. The rationale behind the rule appears to be that a retiree should not be subjected to undue hardship in the evening of his life after having rendered satisfactory service to the State. If old matters which have been settled by efflux of time are permitted to be re-opened after expiry of period of four years then a retiree may not be in a position to defend himself because the evidence in his favour may not be available. The co-employee after retirement might have settled at far flung places and memory may not serve such witnesses and the retiree. The 'Sword of Damocles' in the shape of departmental inquiry cannot be kept hanging on the head of the retiree for all times to come and he should be allowed to live in peace after the statutory period of four years of his retirement has come to an end...”

5. In an overview of the matter, the present petition deserves to be

¹ 2009 (1) ILR (Punjab & Haryana) 163

² 2000(2) RSJ 85

³ 2001 (4) RSJ 127

⁴ 2002 (1) RSJ 509

⁵ 2004(2) RSJ 127

⁶ CWP-17382-2005, decided on 07.08.2007

and is allowed. Chargesheet dated 25.11.2019 is hereby set aside.

6. Pending application, if any, stand disposed of.

(AMAN CHAUDHARY)
JUDGE

31.07 .2024

M.Kamra

Whether speaking/reasoned

:

Yes / No

Whether reportable

:

Yes / No