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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. LPA-1655-2024
Date of decision:01.10.2024

HARYANA WAQF BOARD AND ANOTHER
...Appellants

VERSUS

MOHD. SHARIF
...Respondent

2. LPA-1656-2024

HARYANA WAQF BOARD AND ANOTHER
...Appellants

VERSUS

MOHD. SHARIF
...Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Gulam Nabi Malik, Advocate
for the appellant(s).

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DEEPAK MANCHANDA, J.

1. Both these intra court appeals are taken up together for final disposal since they are inter connected and even both the writ petitions filed by the same respondent were allowed by a learned Single Judge of this Court together which are under challenge in these intra court appeals.

2. Through these appeals, the appellants have challenged the impugned common judgment dated 15.03.2024 passed by the learned Single Judge in CWP-20219-2020 and CWP-3744-2021. CWP-20219-2020 was

filed by the respondent seeking a writ of mandamus directing the appellants to release the retiral benefits and through CWP-3744-2021, the respondent challenged the charge-sheet dated 12.01.2021, which were allowed with the directions to release all the retiral benefits of the respondent along with interest at the rate of 6% per annum on the ground that appellants did not have any authority to issue the chargesheet post retirement.

3. The outlined facts emanating from the pleadings of the present intra court appeal are that respondent was working as an Estate Officer with the appellants, who retired on 31.03.2020 and was served with a chargesheet dated 12.01.2021 i.e. after his retirement. CWP-3744-2021 was filed challenging the said chargesheet has been allowed and the chargesheet dated 12.01.2021 was ordered to be set aside. The respondent had challenged the said chargesheet on the ground that the provisions of Haryana Civil Services Rules are not applicable to the appellants-Board and there is no provision under the Punjab Waqf Board Regulations, 1996 by which a chargesheet can be served upon a retired employee for the action pertaining to what happened prior to his retirement.

4. The respondent challenged the said action by filing the writ petitions before the learned Single Judge which were allowed and now aggrieved against the impugned common judgment dated 15.03.2024 these intra court appeals have been preferred by the appellants.

5. We have heard the learned counsel for the appellants.

6. A perusal of the impugned judgment would show that learned Single Judge has rightly allowed the writ petitions filed by the respondent on the ground that a chargeseheet cannot be issued to a retired employee after his retirement where the master and servant relationship ceases to operate and as per the settled law, the disciplinary proceedings commence

from the issuance of chargesheet and not from the date of show cause notice. Further admittedly, the respondent is governed by the Punjab Waqf Regulations, 1996 where there is no provision for issuance of chargesheet which could have been served after the retirement of the respondent and Rule 12(ii)(b) of the Haryana Civil Services Rules are not applicable to the appellant-Board. The argument raised by learned counsel for the appellants that show cause notice was issued to the respondent prior to his retirement and even chargesheet can be issued after his retirement is not sustainable as he has placed reliance upon a judgment passed by the Hon'ble Apex Court in the case of ***U.P. State Sugar Corporation Ltd. and others Vs. Kamal Swaroop Tondon*** AIR 2008 (SC) 1235 where the Hon'ble Supreme Court observed that a show cause notice was issued to the respondent therein for the losses caused to the Corporation due to the negligence and carelessness on the part of the respondent-employee, therefore, proceedings could have been taken for the recovery of financial losses suffered by the Corporation due to the negligence and carelessness attributable to the respondent-employee and accordingly allowed the SLP with certain directions whereas the said judgment is not applicable to the facts of the present case as the said show cause notice was issued to the respondent therein for the losses caused to the Corporation due to his negligence and carelessness whereas in the case of present respondent, no financial loss has been caused to the appellants-Board. Hence, this argument is not acceptable. The question in the present intra court appeal which has been raised by the appellants-Board is whether action of appellants-Board is justified in issuance of impugned chargesheet after retirement of the respondent without any authority/provision in the Services Rules.

7. A perusal of the pleadings and material available on record

shows and even has been admitted by the appellants-Board that respondent had retired on 31.03.2020 who had been served upon a chargesheet dated 12.01.2021. Admittedly, at the time of retirement, there was no departmental/judicial proceedings pending against the respondent except issuance of show cause notice prior to his retirement. It is a well settled law that no chargesheet could be issued to the employee after his retirement because relationship of an employee and an employer comes to an end with the superannuation of the employee subject to payment of his retiral benefits. After retirement only those proceedings were allowed to be continued which have been initiated during the course of employment and if any employee is found guilty then either a cut in his pension or recovery could be effected from his gratuity. No such provision of law has been brought to the notice of this Court by the learned counsel appearing for the appellants to justify its authority to issue impugned chargesheet so as to initiate disciplinary proceedings against a retired employee. In the absence of any authority shown by the appellants it can be safely held that the appellants did not have any authority to initiate any disciplinary proceedings against a retired employee. It has been held in a catena of judgments that no proceedings can be continued once an employee is permitted to be retired and the proceedings are commenced from the issuance of show cause notice. Moreover, we are in agreement that the observations made by the learned Single Judge that Rule 12 (ii)(b) of Haryana Civil Services Rules is not applicable to the case of respondent and in the absence of any specific provision in the regulations made by the appellants themselves regarding issuance of chargesheet post retirement as in the case of respondent, the learned Single Judge has rightly passed the impugned judgment. It does not require any interference at our end as same does not suffer from any error or illegality.

8. In the light of the above, the present intra court appeals are dismissed.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

October 01, 2024
Nisha Yadav

Whether reasoned/speaking?	*Yes/No*
Whether reportable?	*Yes/No*