

The grievance of the petitioner is that the said chargesheet served upon the petitioner without ascertaining whether after the retirement of the petitioner, the chargesheet can be served upon the petitioner keeping in view the rules governing the service on the said aspect. Learned counsel for the petitioner argues that the petitioner had already retired on 31.03.2020 and the chargesheet was served upon him on 02.05.2022 and on the said date, the allegation, which were made part of the chargesheet dated 02.05.2022 related to the year 2014, which were beyond the period of 4 years on the date when the chargesheet was served upon the petitioner and therefore, there was no jurisdiction with the respondents to serve the chargesheet keeping in view the Rule 2.2 of the Punjab Civil Services, Volume-II.

Learned counsel for the respondent concedes the factum that as per the rules governing the service, after the retirement of an employee, the chargesheet can only be served with regard to an incident which is not more than 4 years old at the time of the issuance of the chargesheet but submits as, the petitioner never raised any grievance, the writ petition may kindly be dismissed.

I have heard learned counsel for the parties and have gone through the records of the present case with this able assistance.

Before proceeding further, it may be noticed that while issuing notice of motion, the Co-ordinate Bench of this Court by an interim order dated 01.09.2022 had stayed further proceedings qua the chargesheet.

As per the settled principle of law, departmental proceedings can only be initiated in case the same is permissible under the Rules

especially against a retired employee. In the present case, it is conceded position that the petitioner retired on 31.03.2020 and the chargesheet has been issued against him on 02.05.2022.

Under Rule 2.2 of Punjab Civil Services Rules, Volume-II action can be taken against a retired employee.

Rule 2.2 (b) of the Punjab Civil Services Rule, Volume-II relates to the issuance of a chargesheet to a retired employee. As per Rule 2.2 (b) only the action can be taken with regard to an incident which is not more than 4 years old at the time of the issuance of the disciplinary proceedings, held as under:-

“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 department or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence, during his service including service rendered on 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 and as if the officer had continued in service.

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

(ii) shall not be in respect of an event which took place not more than four years before the institution of such proceedings, 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 could be made in relation to the officer during his service.”

Hence, keeping in view the above mentioned Rule, no disciplinary proceedings could have been initiated after 2 years of the retirement and moreover after 8 years from the date of the incident which pertains to year of 2014.

Learned counsel for the State has not been able to rebut the contention that under Rule 2.2 (b), the chargesheet could not have been served upon the petitioner after 2 years of the retirement and concede this fact that the petitioner retired from service on 31.03.2020 and the chargesheet being served upon him on 02.05.2022 relating to an incident which was more than 8 years on the date chargesheet was issued to the

petitioner hence, the respondent-State did not had jurisdiction to serve a chargesheet dated 02.05.2022 upon the petitioner as per the Rules governing the service hence, the same is accordingly set aside.

No other arguments raised for the interference by this Court in the present petition.

Hence, the present petition is allowed in the abovestated terms.

08-08-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking : YES/NO
 Whether reportable: YES/NO