

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-16502-2023

Date of decision: 16.01.2024

OM PARKASH

...PETITIONER

Vs.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Surinder Garg, Advocate
for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

JAGMOHAN BANSAL, J (ORAL)

1. On 02.08.2023, the following order was passed:-

“The petitioner, who retired on 31.01.2022 as a Superintendent Grade-II from the office of Senior Superintendent of Police, Moga assails three charge-sheets issued after he had retired from office. While the charge-sheet dated 26.07.2022 sent to the petitioner with a letter dated 05.08.2023 (Annexure P-2) pertains to the alleged misconduct on 11.07.2019, wherein it is alleged that the petitioner had not forwarded the name of Head Constable Gurmeet Singh for Intermediate School Course, the same is however assailed on the ground that such charge-sheet could not have been served upon him post-retirement as the same did not pertain to any allegations regarding financial loss to the government/employer. Learned counsel in this regard has drawn the attention of this Court to Rule 2.2 (b) Punjab Civil Service Rules, Vol. II., which reads as under:-

“2.2(b) The Government further reserve to themselves the right of withholding or withdrawing a pension or

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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) 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 could be made in relation to the officer during his service.

The second charge-sheet dated 03.08.2022 (Annexure P-3) pertains to an incident of January, 2018 (sic-March). In other words, the alleged misconduct occurred more than four

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years prior to serving of the charge-sheet and which according to the petitioner is not permissible in view of the provisions of Rule 2.2 (b) Punjab Civil Service Rules, Vol.II already reproduced above.

The third charge-sheet dated 15.06.2023 (Annexure P-4) pertains to the alleged incident of 11.05.2017, which again is an incident more than four years prior to serving of the charge-sheet and would be hit by provision of Rule 2.2 (b) Punjab Civil Service Rules, Vol.II as contended by the learned counsel.

Notice of motion for 12.10.2023.

To be shown in the urgent list.”

2. Counsel for the parties are *ad idem* that case of the petitioner qua charge sheet dated 03.08.2022 (Annexure P-3) and charge-sheet dated 15.06.2023 (Annexure P-4) is squarely covered by the judgment dated 10.01.2024 of this Court passed in CWP-399 of 2024.
3. Counsel for the petitioner does not press petition *qua* charge-sheet dated 26.07.2022 (Annexure P-2) and submits that he would pursue his remedies before the Authorities concerned.
4. In the wake of statements of both sides, the petition stands allowed qua charge-sheet dated 03.08.2022 (Annexure P-3) and charge-sheet dated 15.06.2023 (Annexure P-4) and dismissed as withdrawn qua charge-sheet dated 26.07.2022 (Annexure P-2) with liberty to avail remedies as permissible by law.

16.01.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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