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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-20219-2020
Date of Decision: 15.03.2024

Mohd. Sharif Petitioner
Versus

Haryana Waqf Board and another
.... Respondents

CWP-3744-2021

Mohd. Sharif Petitioner
Versus

Haryana Waqf Board and another
.... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Dinesh Kumar, Advocate,
for the petitioner (in both cases).

Mr. Athar Ahmad, Advocate,
for the respondents

JASGURPREET SINGH PURI, J. (ORAL)

1. Both the petitions have been filed under Article 226 of the Constitution of India and are being taken up together for final disposal since they are inter connected and filed by the same petitioner.
2. The brief facts as stated by the learned counsel for the parties in the present case are that the petitioner was working as an Estate Officer with the respondents-Waqf Board and retired on 31.03.2020 (Annexure P-1) vide orders dated 24.03.2020 and the order of retirement was an unconditional order. After the retirement of the petitioner, he was served with a charge-

sheet dated 12.01.2021 annexed as Annexure P-6 in CWP-3744-2021 on the allegation that while he was in service he had supplied some information under the RTI Act to a person which was an irrelevant information and ultimately which proved to be controverted in a Court case and as a consequence of the same, the Waqf Board had suffered some losses. In CWP-3744-2021, the aforesaid charge-sheet is under challenge and in CWP-20219-2020, the prayer has been made seeking a direction to release the retiral benefits i.e. Gratuity, Leave Encashment and Provident Fund etc.

3. The writ petition bearing CWP-3744-2021 wherein the challenge is to the charge-sheet dated 12.01.2021 vide Annexure P-6 which was issued after the retirement of the petitioner, is being taken first for consideration. The main argument which has been raised by the learned counsel for the petitioner is that the petitioner had retired on 31.03.2020 and after his retirement, he was served with a charge-sheet which was without the authority of law. He further submitted that in the present case, the provisions of Haryana Civil Services Rules are not applicable to the respondent-Waqf Board which is not in dispute and there is no provision of law governed under the Punjab Waqf Regulations, 1996 and there is no provision under the aforesaid Regulations by which a charge-sheet can be served upon a retired employee for the action pertaining to what happened prior to retirement. He submitted that although under the Haryana Civil Services Rules, there is a provision under Rule 12(ii)(b) which is analogous to Rule 2.2(b) of the Punjab Civil Services Rules wherein for an event occurring four years prior to the issuance of the charge-sheet, the charge-sheet can be served upon the retired employee but since the aforesaid Rules

are not applicable to the Waqf Board and they are governed by their own Regulations which does not provide any such provision, the aforesaid serving of the charge-sheet upon the petitioner was without the authority of law.

4. The learned counsel for the respondents stated that so far as the aforesaid legal position is concerned as per the Regulations of the Waqf Board no such provisions exists wherein a charge-sheet can be issued after the retirement and it is also not in dispute that the provisions of the Haryana Civil Services Rules or Punjab Civil Services Rules are not applicable to the Waqf Board. He has however submitted that since a show-cause notice was issued to the petitioner prior to his retirement, the charge-sheet could have been issued even after his retirement.

5. After hearing the learned counsel for the parties, this Court is of the considered view that it is a settled law that after the retirement of an employee the master and servant relationship ceases to operate. It is also a settled law that the disciplinary proceedings commenced from the issuance of the charge-sheet and not from the issuance of show-cause notice. Admittedly, the petitioner is governed by the Punjab Waqf Regulations, 1996, which according to both the learned counsels for the parties, does not contain any provision which is analogous or similar to that of the provisions of Rule 12(ii)(b) of the Haryana Civil Services Rules and there is no provision of law applicable to the petitioner wherein a charge-sheet could have been served after the retirement.

6. In view of the aforesaid admitted position pertaining to the application of law, the present petition is allowed, the impugned charge-

sheet dated 12.01.2021 (Annexure P-6) is hereby set aside and quashed.

7. The petition bearing CWP-20219-2020 is for seeking release of the retiral benefits of the petitioner which has been withheld because of the pendency of the charge-sheet. Since the charge-sheet itself has been set aside as above, there is no justification for withholding the retiral benefits of the petitioner.

8. In view of the above, the present petition is also allowed. The respondents are directed to release all the retiral benefits of the petitioner along with interest @ 6% per annum especially in view of the fact that there was no authority with the respondents-Waqf Board to have issued the charge-sheet and also to have withheld the retiral benefits. The aforesaid amount be paid to the petitioner within a period of three months from today.

15.03.2024
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |