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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

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CWP-4282-2018 (O&M)  
Date of Decision: 01.05.2024

Hawa Singh

..... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. Shivam Malik, Advocate for  
Mr. Santosh Malik, Advocate,  
for the petitioner.

Ms. Aditi Sharma, Advocate for  
Mr. C.S. Bakshi, Advocate,  
for the respondents.

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**JASGURPREET SINGH PURI, J. (ORAL)**

1. The present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned orders dated 31.03.2017 (Annexures P-8 & P-9) passed by respondent No.2 vide which punishment of 5% cut in pension for two years respectively has been imposed upon the petitioner being illegal, without jurisdiction, excessive and disproportionate and further for restraining respondent No.2 to continue with charge-sheet No.183/LS-526 dated 14.12.2016 (Annexure P-6) being not maintainable after retirement and further for issuance of a direction to release the consequential benefits and further for issuance of a writ in the nature of mandamus directing the respondents to release the withheld amount of Gratuity and commutation of

pension along with interest.

2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the petitioner was appointed as Shift Attendant on *ad hoc* basis in the respondent-Nigam in the year 1975 and thereafter, in the year 1996 he was regularized. Thereafter, on 31.05.2014, he retired as Junior Engineer from the respondent-Nigam. He further submitted that while he was in service there were some charge-sheets against him in which some punishment orders were passed pertaining to stoppage of some increments etc. which have already been given effect to while he was in service and there is no dispute with regard to same nor he is claiming any punishment order on the same since they already stand implemented at the time while he was in service. However, he is aggrieved by two charge-sheets i.e. Annexure P-1 dated 27.12.2013 which was although issued prior to his retirement, but no punishment order was passed before his retirement but it was only after his retirement that the punishment order was passed on 31.03.2017 vide Annexure P-8 wherein it was directed to impose a cut of 5% from his pension for life time. The second charge-sheet (Annexure P-4) dated 03.04.2015 which was issued to the petitioner after his retirement and in that regard also, a punishment order was passed on 31.03.2017 vide Annexure P-9. He submitted that in fact there was a third charge-sheet which was issued to the petitioner after his retirement i.e. on 14.12.2016 vide Annexure P-6 but later on it was withdrawn and therefore, he is aggrieved by very issuance of the charge-sheets to the petitioner vide Annexures P-1 & P-4 and the punishment orders which have been passed against him vide Annexures P-8 & P-9. He submitted that apart from the above, the petitioner

is also aggrieved by the action of the respondent in not paying him the Gratuity and some other retiral benefits immediately after his retirement. He submitted that as per the reply filed by the respondent, only GPF, Leave Encashment and provisional pension were granted to the petitioner, but Gratuity and other benefits were withheld because of the aforesaid punishment orders and he is therefore not only entitled for grant of all his retiral benefits but also for grant of interest on the delayed payment of retiral benefits.

3. Learned counsel appearing for the petitioner further submitted that so far as the aforesaid two charge-sheets are concerned, the punishment orders have been passed after the retirement of the petitioner i.e. on 31.05.2014. He also submitted that as per the reply which has been filed by the Nigam, it has been so stated that by virtue of Rule 2.2 of the Punjab Civil Services Rules as applicable to the State of Haryana that if a charge-sheet is issued prior to the retirement and it continues after the retirement, then by virtue of the aforesaid Rule, the same can be continued and an order can be passed and not only this after the retirement, a charge-sheet can also be issued, but for the event which has taken place preceding four years. He also submitted that there is no dispute with regard to the aforesaid provisions of law but in the present case the petitioner was an employee of UHBVNL which is a State Government Undertaking and there was no adoption of the aforesaid Punjab Civil Services Rules as applicable to the State of Haryana by the respondent of the present case and in the absence of any adoption of the aforesaid Rule, by virtue of which the action has been taken against the petitioner, the very initiation of the charge-sheet (Annexure P-1) and also the

aforesaid charge-sheet (Annexure P-4) after the retirement and the punishment orders (Annexures P-8 & P-9) are liable to be set aside and quashed because the same are without the authority of law and without any provision of law and an offer has been given to the Nigam to pass a punishment order after the retirement of the petitioner. He submitted that after the retirement of an employee, the master and servant relationship ceases to operate and in the absence of any specific provision authorizing the Nigam to initiate an action, the same cannot be done. He has therefore prayed that both the orders of punishment (Annexures P-8 & P-9) are liable to be quashed and set aside since they are without the authority of law.

4. On the other hand, Ms. Aditi Sharma, Advocate has caused appearance on behalf of Mr. C.S. Bakhshi, learned counsel for the respondents-Nigam and while referring to the reply filed by the Nigam submitted that as per the reply, the action has been taken as per the Rule 2.2 of the Punjab Civil Services Rules as applicable in the State of Haryana and therefore, the respondents were within their competence to do the same.

5. I have heard the learned counsels for the parties.

6. The only issue involved in the present case is as to whether the respondent-Nigam was authorized or had acted under any provision of law to initiate the disciplinary proceedings by issuance of a charge-sheet against the petitioner, who ceased to his employee and thereafter, to pass a punishment order after his retirement or not. It is a settled law that after the retirement of an employee, the master and servant relationship ceases to operate. However, there is an exception to the same, in case, there is any provision under the law, which authorizes to initiate a proceeding or to

conclude a proceeding, then in that situation by virtue of the provisions of law, the same can always be done. One such provision is contained in Rule 2.2(b) of the Punjab Civil Services Rules, Volume-II. In the aforesaid provision, in case, a charge-sheet is issued or disciplinary proceedings have been initiated prior to the retirement, the same can be continued after the retirement as well and in case, an employee has retired then after his retirement as well, a charge-sheet can be issued and disciplinary proceedings can commence subject to the condition that the act should be not more than four years preceding from the issuance of the charge-sheet. In these two eventualities even after the retirement, the proceedings can be initiated and even concluded by the competent authority.

7. However, in the present case, the respondent is not the State of Haryana but it is only a State Undertaking. There is nothing on the record to show that the respondent-Nigam had adopted the Punjab Civil Services Rules as aforesaid. In the absence of adoption of the aforesaid Rules, the same cannot be invoked by the respondent-Nigam. The respondent-Nigam is also governed by its own regulations i.e. Haryana State Electricity Board (HSEB) Employees (Punishment & Appeal) Regulation, 1990. There is no such provision in the aforesaid Regulations for authorizing the employer to issue any charge-sheet or to initiate disciplinary proceedings after the retirement of the petitioner to conclude the same. Therefore, the reason, which has been given by the respondent-Nigam especially in the reply is only because of Rule 2.2(b) of the Punjab Civil Services Rules, which otherwise there is nothing on record to show that the same has been made applicable to the respondent-Nigam.

8. The aforesaid proposition with regard to one of the other similar organization i.e. DHBVNL was decided by a Division Bench of this Court in *LPA-597-2011* titled as “*Superintendent Engineer, Administration, DHBVNL, Hisar Vs. Karam Singh and other*”, decided on 29.03.2011. It was held that there is no adoption of the Haryana Civil Services Rules by the Nigam and therefore, there was no authority with the Nigam to have initiated disciplinary proceedings against the employee. However, there is another judgment of a Co-ordinate Bench of this Court in *CWP-12171-2010* titled as “*Ajit Singh Vs. Uttar Haryana Bijli Vitran Nigam Limited and others*”, decided on 19.01.2012, which is also the present respondent i.e. UHBVNL in which it was held that there is no provision anywhere under the relevant Rules under which a charge-sheet could have been issued subsequent to the retirement. Therefore, this Court is of the view that the case of the petitioner is squarely covered by the aforesaid judgment of Division Bench of this Court on the point of law and is also covered by a Co-ordinate Bench of this Court in *Ajit Singh’s case (supra)* vide Annexure P-13.

9. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned punishment orders dated 31.03.2017 (Annexures P-8 & P-9) are hereby set aside and quashed as the same have been passed without the authority of law. In case, in pursuance of the aforesaid punishment orders, any amount has been recovered from the pension of the petitioner, the same shall be refunded to the petitioner along with interest @6% per annum (simple) within a period of three months from today.

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10. So far as the second prayer of the petitioner with regard to the payment of remaining retiral benefits is concerned, it is directed that the respondent-Nigam shall pay all the remaining retiral benefits to the petitioner within a period of three months from today along with interest @ 6% per annum (simple) starting from two months after the retirement of the petitioner till the date of disbursement.

11. So far as the payment which have already been paid to the petitioner but with delay is concerned, the petitioner shall also be entitled for interest on the same @ 6% per annum (simple) which shall also be paid to the petitioner within the aforesaid period of three months.

12. All the aforesaid payments are directed to be paid within three months and in case the payments are not paid within the aforesaid period, then the petitioner shall also be entitled to future interest @ 9% per annum (simple).

13. Since the respondents have acted *ex facie* contrary to law, the petitioner shall also be entitled for the costs which are assessed as Rs.20,000/- (Rupees Twenty Thousand Only) which shall be paid by the respondent-Nigam to the petitioner within the aforesaid period of three months.

01.05.2024  
Bhumika

(JASGURPREET SINGH PURI)  
JUDGE

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