



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: April 9, 2024*

+ W.P.(C) 5182/2024 & CM Appls. 21186-21187/2024

(62) **SATYENDRA NATH SINGH**

DEPUTY INSPECTOR GENERAL CISF (RETIRED)..... Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv. with
Mr. Rizwan, Mr. Rishikesh Kumar,
Mr. Kumud Ranjan Mishra,
Mr. Rakesh Kumar Sinha,
Mr. Tanmay Vashistha and Ms. Sachi
Chopra, Advs.

versus

UNION OF INDIA

THROUGH SECRETARY & ORS.

..... Respondents

Through: Mr. Vijay Joshi, Mr. Shubham
Chaturvedi, Advs. Mr. Abhishek,
G.P. for respondent along with
Mr. Devesh Tripathi, D.C. Legal

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

CM Appl. 21187/2024

Allowed, subject to just exceptions.

Application disposed of.

W.P.(C) 5182/2024 & CM Appl. 21186/2024

1. With the consent of the counsel for the parties, we have heard the writ petition finally.



2. This petition has been filed by the petitioner with the following prayers:-

“(i) Set aside the Order dated 24.11.2023 issued by Respondent No.2, CISF Hqs’ rejecting the Petitioner’s plea and subsequent Orders dated 05.02.2024 by Respondent No.2, CISF Hqs appointing the Inquiry officer and Presenting Officer being illegal and ultra vires.

(ii) Set aside the Memorandum No. V-15014/5/2020/L&R-47 dated 29.05.2023, and further all other actions pertaining to this departmental enquiry be quashed and closed.

(ii) Any other relief/reliefs for which the Petitioner is found entitled to.

(iii) Any such other order/orders as Your Lordships may deem fit and proper in the facts and circumstances of this case.”

3. The case of the petitioner as contended by Mr. Arun Bhardwaj, learned Senior Counsel for the petitioner is that this is a second round of litigation inasmuch as the petitioner had filed W.P.(C) 11179/2023 which was decided by this Court by directing as under:-

“14. Without prejudice to the above and in view of the above objection raised by the petitioner and the stand of the respondent that on account of an explanation being sought, the issue was alive and the initiation was within four years, we deem it expedient to dispose of this petition with a direction to the respondents to treat the petition of the petitioner as a representation qua Article of Charge No.I and take a view thereon within a period of six weeks. The decision be communicated to the petitioner. It would be open to the petitioner to take his remedies in law in case petitioner is aggrieved by the decision of the respondents on the representation of the petitioner.”

4. According to him, the respondents vide the impugned order dated November 24, 2023, has rejected the plea of the petitioner qua charge No.1.



The case of the petitioner is that the charge No.1 as framed against the petitioner vide memorandum dated May 29, 2023, clearly depicts that the same is for an alleged misconduct committed prior to four years on the date of issuance of chargesheet and the petitioner having retired, the respondents cannot frame such a charge against the petitioner. In this regard, Mr. Bhardwaj has relied upon Rule 8(2)(c)(ii) of the Central Civil Services (Pension) Rules, 2021. In other words, it is his submission that if the respondents want to proceed against the petitioner, the charge necessarily has to be against a misconduct committed within four years from the date of alleged incident. Mr. Bhardwaj in this regard has also drawn our attention to the charge itself to contend that charge being that the petitioner while functioning as Deputy Inspector General, CISF, NZ II, from March 01, 2019 to January 17, 2020 issued posting order dated April 04, 2019 in respect of HC/GD Ravi Ji Bhat from SHEP Salal to NFL Bhatinda, which is in violation of letter dated December 28, 2018. According to him, the issuance of order dated April 04, 2019 which at the most construed as a misconduct on the part of the petitioner being beyond four years on the date of issuance of chargesheet, the same cannot be a subject matter of charge.

5. In respect of charge Nos.2 and 3, he would also submit that if Article of Charge-I is liable to be set aside, the other Articles of Charge Nos. 2 and 3 framed under the same memorandum would also need to be set aside. In support of this submission, he has relied upon the following judgments:-

- a. *Suchismita Mishra v. High Court of Orissa & Ors. W.P.(Civil) 1042/2021* decided on *May 17, 2023*.
- b. *Punjab State Power Corporation Limited, Patiala and Others v. Atma Singh Grewal, (2014) 13 SCC 666*.



- c. *Raj Pal v. State of Haryana and others*, CWP 5842/2022 decided on December 07, 2022.
- d. *D. V. Kapoor v. Union of India and others*, C.A. No. 5025/1985, decided on August 07, 1990
- e. *Shri Bishamber Nath v. Union of India & Anr.*, W.P.(C) 6614/1998, decided on August 28, 2012.
6. At last, Mr. Bhardwaj would submit that if in the eventuality the charge Nos.2 and 3 sustain, then the liberty be given to the petitioner to file a reply to the said charges and till such time the respondents must not be allowed to proceed in the departmental inquiry.
7. On the other hand, Mr. Vijay Joshi would submit that this being a second round of litigation and the challenge in the first round of litigation being limited to charge No.1, this petition with regard to charge Nos.2 and 3 is unsustainable. He would also submit that pursuant to the order passed by this Court in the aforesaid writ petition, the respondents have passed a detailed order rejecting the contention of the petitioner with regard to the charge No.1. Mr. Joshi would submit that the limitation of four years should not be seen from the perspective of issuance of order dated April 04, 2019, but on the basis of the subsequent facts which include the letter dated April 09, 2019 issued by the IG clearly directing the petitioner to immediately relieve Ravi Ji Bhat to report to CISF Unit at DHEP Dhauliganga and to submit compliance report on April 12, 2019, which direction was also not complied with by the petitioner.
8. We are not impressed by this submission of Mr. Joshi for the simple reason, the non compliance of order dated April 09, 2019, is not the subject matter of charge No.1. Hence, the plea of limitation has to be seen w.e.f



April 04, 2019. Admittedly, on May 29, 2023, more than four years had elapsed. In view of that position, the Rule 8(2)(c)(ii) which we reproduce below shall come into play and to that extent, the charge No.1 would be hit by limitation:-

“8. Power to withhold or withdraw pension-

(2) x x x x x

(c) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement, or during his re-employment,-

(ii) shall not be in respect of any event which took place more than four years before such institution;

x x x x x

Explanation.- For the purpose of this rule,-

(1)(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date;

9. Mr. Bhardwaj is justified in relying upon the judgment in the case of ***Suchismita Mishra (supra)*** wherein Supreme Court has held as under:-

“From the very scheme of Rule 7 of Rules, 1992, it needs no interpretation that in reference to the officer/employee, who stood retired from service, inquiry indeed can be initiated against him/her, provided sanction is obtained from the Government and must be during the period of 4 years before such institution and the Explanation added to the scheme of Rules makes it abundantly clear that proceedings shall be deemed to be instituted on the date on which the statement of charges are issued to the Government servant/pensioner, as the case may be.

Admittedly, in the instant case, the petitioner stood retired from service on 31.07.2021 and chargesheet was served on 11/16.10.2021 and this is for the period when the petitioner served as a Registrar from 28.06.2012 to 03.10.2015, and that



it is indisputedly beyond the period of four years of such institution.

In the given facts and circumstances, in our considered view, the chargesheet served on the petitioner dated 11/16.10.2021 is in clear breach of the mandate of Rule 7 of Rules 1992.

Consequently, the writ petition succeeds and is allowed. The chargesheet dated 11/16.10.2021 and other consequential departmental proceedings initiated against the petitioner stand quashed.

The petitioner is entitled to all terminal/retiral benefits, if the same have been withheld because of pendency of the departmental inquiry, along with interest at the rate of 9% per annum from the date it was withheld, until actually paid.”

10. Though Mr. Bhardwaj has relied upon other judgments as mentioned in paragraph 5 above, the same need not be gone into in view of the judgment of the Supreme Court ***Suchismita Misra (supra)***. Therefore, the charge No.1 framed by the respondents is clearly unsustainable being contrary to Rule 8(2)(c)(ii), which we have reproduced above, and to that extent the same needs to be set aside. It is ordered accordingly

11. Insofar as the plea of Mr. Bhardwaj in respect of charge Nos.2 and 3 is concerned, the same is not appealing for the simple reason that all the three charges could be subject matter of different Memorandums. Even otherwise, each charge is an independent charge which is being framed against the petitioner. Also, the finding of the Inquiry Officer on each of such charges shall also be independent / separate. Moreover, charge No.1 is in noway connected with charge Nos.2 or 3. Therefore, as the petitioner had not challenged the charge Nos.2 and 3 in the earlier round of litigation and also the fact that the submissions made by Mr. Bhardwaj qua charge Nos. 2 and 3 are not appealing to us, we are of the view, the said charges cannot be



interfered with and the same needs to be looked / decided by the Inquiry Officer. Hence, while rejecting the challenge to the charge Nos.2 and 3, we grant 15 days time to the petitioner to file reply to charge Nos.2 and 3 on merits of the alleged misdemeanour. The respondents shall proceed with the departmental proceedings in accordance with law.

12. Though a plea has been taken by Mr. Bhardwaj that at the time of the petitioner's retirement, the respondents had given vigilance clearance and certified that no proceedings are pending/initiated against the petitioner, the said submission is not appealing to us for the reason that the respondents are within their rights to initiate proceedings even after retirement of an employee.

13. In view of our discussion, the present petition is disposed of in above terms.

14. Pending applications, if any, are also dismissed as infructuous. No costs.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

APRIL 09, 2024/ds