



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

201

CWP-11437-2021 (O&M)
Date of decision: 26.11.2025

K.K. Jain

....Petitioner

Versus

State of Haryana and other

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Raman B. Garg, Advocate
with Mr. Mayank Garg, Advocate
for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Padamkant Dwivedi, Advocate
with Ms. Ayushi, Advocate
for respondent No.3.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the impugned charge-sheet dated 13.03.2019 (Annexure P-2) being illegal, arbitrary and violative of Rule 2.2(b) of the Punjab Civil Services Rules, Volume II (as applicable to Haryana), in the light of the judgments of the Hon'ble Supreme Court in *State of U.P. v. Shri Krishna Pandey, 1996 (3) SCT 418* and *Punjab State Power Corporation Limited v. Atma Singh Grewal, 2015 (2) SCT 420*. Further prayer has been made for quashing the order dated 22.04.2021 (Annexure P-11) *qua* appointing the Inquiry Officer which is in



violation of Rule 7(5) of the Haryana Civil Services (Punishment & Appeal) Rules, 2016.

2. The brief facts of the case as pleaded in the writ petition are that the petitioner was appointed as Executive Officer on 30.04.1982 and retired on 28.02.2015 vide order dated 16.02.2015. During his entire career, he earned an outstanding service record with no disciplinary proceedings pending on the date of his retirement. Although the petitioner was issued two charge-sheets dated 20.02.2015 and 16.12.2015 after his retirement, however, both the said charge-sheets were eventually filed/dropped vide orders dated 06/10.04.2017 and 26.05.2017 upon his exoneration. Thereafter, after more than four years of his retirement, the petitioner was issued another charge-sheet dated 13.03.2019 (Annexure P-2) alleging misconduct relating to the period 2010 to 2012 during his tenure at Municipal Council/Corporation, Panchkula. The petitioner sought inspection of documents through various written communications dated 19.03.2019, 10.06.2019, 01.10.2019, 18.12.2019 and 08.06.2021, but the relevant record was never shown to him. During his visit on 14.06.2021, instead of being provided documents, he was handed over a copy of the order dated 22.04.2021 (Annexure P-11) appointing an Inquiry Officer, which prompted him to submit the representations dated 14.06.2021 (Annexure P-12) and 16.06.2021 (Annexure P-14), however, no action was taken on his representations and he was directed to join the inquiry on 04.07.2021. Hence, this writ petition.



3. Learned counsel for the petitioner, *inter alia*, contends that the charge-sheet dated 13.03.2019 pertains to the allegations of misconduct committed in the year 2010-2012, i.e. more than seven to nine years prior to issuance of the charge-sheet, and more importantly, nearly four years after the petitioner's superannuation on 28.02.2015. Therefore, initiation of such proceedings is barred by Rule 2.2(b), clause (2)(ii) of the Punjab Civil Services Rules, Volume II. He further submits that the petitioner had earlier been issued two charge-sheets dated 20.02.2015 and 16.12.2015, both of which were eventually dropped vide orders dated 06/10.04.2017 and 26.05.2017 after the petitioner was fully exonerated on the basis of the enquiry reports. He further contends that despite such clean exoneration in both the earlier charge-sheets, the respondents have chosen to resurrect the stale allegations pertaining to the period 2010-2012, which itself demonstrates *mala fides* on the part of the respondents. Reliance is placed on the judgment of the Hon'ble Supreme Court in ***State of U.P. v. Shri Krishna Pandey (1996) 9 SCC 395***, wherein it was held that departmental proceedings instituted after retirement cannot pertain to incidents that occurred more than four years earlier. He further submits that the case of the petitioner is squarely covered by the Full Bench judgment of this Court in ***Dr. Ishar Singh vs State of Punjab and another, 1994(1) SCT 563*** and the judgment rendered by this Court in CWP-23151-2025, titled as ***Vasdev Singh vs State of Punjab and others***, decided on 11.08.2025. Learned counsel for the petitioner



further submits that the order dated 22.04.2021 (Annexure P-11) appointing an Inquiry Officer is *per se* illegal as it violates Rule 7(5) of the Haryana Civil Services (Punishment & Appeal) Rules, 2016, which mandates consideration of the delinquent employee's reply and affording of a personal hearing before the appointment of an Inquiry Officer. In the present case, no reply was ever called for, nor any opportunity of hearing was granted to the petitioner, thereby rendering the appointment of the Inquiry Officer *void*.

4. *Per contra*, learned State counsel as well as learned counsel for respondent No.3 submits that the charge-sheet was issued pursuant to initiation of vigilance enquiry and the petitioner is alleged to have committed a serious misconduct and thus, respondent No.3 was justified in issuing the impugned charge-sheet dated 13.03.2019 (Annexure P-2). Learned counsel for respondent No.3 further submits that the charge-sheet was served within a period of four years from the petitioner's retirement and that too, after the misconduct was brought to the knowledge of respondent No.3.

5. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

6. It is not in dispute that the petitioner retired on 28.02.2015. The impugned charge-sheet was issued on 13.03.2019, i.e. more than four years after the date of petitioner's retirement and the alleged misconduct relates to the period 2010-2012, i.e. 7-9 years prior to issuance of the charge-sheet. This Court finds it appropriate to study the



relevant provision of the Rule 2.2 (b), Note 2, Clause (b) proviso (i) and (ii) of the Punjab Civil Services Rule, Volume II, which is reproduced for ready reference.

2.2 (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 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;

7. The rule precisely forbids initiating disciplinary proceedings after an employee has retired, if the matter pertains to an event that happened over four years before the date of initiating the proceedings.

8. A Two Judge Bench of the Hon'ble Supreme Court in ***State of U.P. v. Shri Krishna Pandey, (1996) 9 SCC 395*** made the following observation.



“6. It would thus be seen that proceedings are required to be instituted against a delinquent officer before retirement. There is no specific provision allowing the officer to continue in service nor any order passed to allow him to continue on re-employment till the enquiry is completed, without allowing him to retire from service. Equally, there is no provision that the proceedings be initiated as a disciplinary measure and the action initiated earlier would remain unabated after retirement. If Regulation 351-A is to be operative in respect of pending proceedings, by necessary implication, prior sanction of the Governor to continue the proceedings against him is required. On the other hand, the Regulation also would indicate that if the officer caused pecuniary loss or committed embezzlement etc. due to misconduct or negligence or dereliction of duty, then proceedings should also be instituted after retirement against the officer as expeditiously as possible. But the events of misconduct etc. which may have resulted in the loss to the Government or embezzlement, i.e., the cause for the institution of proceedings, should not have taken place more than four years before the date of institution of proceedings. In other words, the departmental proceedings must be instituted before lapse of four years from the date on which the event of misconduct etc. had taken place. Admittedly, in this case the officer had retired on 31-3-1987 and the proceedings were initiated on 21-4-1991. Obviously, the event of embezzlement which caused pecuniary loss to the State took place prior to four years from the date of his retirement. Under these circumstances, the State had disabled itself by their deliberate omissions to take appropriate action against the respondent and allowed the officer to escape from the provisions of Regulation 351-A of the Regulations. This order does not preclude proceeding with the investigation into the offence and taking action thereon.”(emphasis added)

9. Further, A Division bench of this Court in ***Sub Inspector Puran Chand (Retd.) vs. State of Punjab and others 2000(3) SCT 515***

while considering a similar issue, held as follows



“7. Pointed attention of this Court has been drawn to clause (2) of the aforesaid rule 2.2(b). A careful perusal of the same would show that in case a departmental proceeding is to be initiated against an employee after his retirement, it cannot be in respect of an event which took place more than four years from the date when the proceeding is initiated. It is clear that the charge sheet was issued to the petitioner in the instant case on 24.11.1998, whereas the incident in question in respect to which he has been proceeded against relates to the year 1988 i.e. one decade prior to the issuance of the charge sheet. It is obvious that issuance of the aforesaid charge sheet is wholly unacceptable in law, as the same is clearly barred by the provision of clause (2) of rule 2.2(b) extracted above.” (emphasis added)

10. Similarly, the Division Bench of this Court in ***Atma Singh Grewal’s case (supra)***, has held as under:-

It is not a matter of dispute, that the alleged misconduct, on the basis of which the aforesaid charge-sheet dated 7.01.2008 was issued, was actually committed between 15.05.2002 to 03.12.2002 i.e. well before four years of the issuance of the charge-sheet dated 07.01.2008. The learned Single Judge while allowing Civil Writ Petition No. 11836 of 2008 held, that the aforesaid charge-sheet having been issued after a period of four years of the commission of the alleged delinquency, was liable to be set aside, as the same was in violation of mandate of rule 2.2 (b) (extracted hereinabove).

The first contention of the learned counsel for the appellant is, that rule 2.2. (b) should be interpreted to read that the bar for issuing a charge-sheet to an officer who is in receipt of pensionary benefits, should commence with effect from the date of the detection of the delinquency, and not with reference to the date of occurrence of the delinquency itself.



We have considered the first submission advanced at the hands of the learned counsel for the appellant. The language of clause (ii) of the second proviso under Rule 2.2(b) of the Punjab Civil Services Rules, Volume II, is express and categoric, inasmuch as, the same bars the initiation of the departmental proceedings, after a period of four years from the date the "event" in respect whereof the proceedings are being initiated, took place. There is no possibility of interpreting the rule in the manner suggested by the learned counsel for the appellant. In fact, the suggestion of the learned counsel for the appellant to interpret the rule, so as to exclude the initiation of the departmental enquires, only after a period of four years of the "detection" of the delinquency in our view, is clear absurd. The instant submission seems to be coined up only as a matter of a face saving device, rather than as a matter of interpretation or deriveable inference.

11. Applying the above principles to the present case, the impugned charge-sheet dated 13.03.2019 (Annexure P-2) is clearly hit by the statutory embargo contained in Rule 2.2(b)(2)(ii) of the Punjab Civil Services Rules. Moreover, the order dated 22.04.2021 (Annexure P-11) appointing the Inquiry Officer is also unsustainable in the eyes of law as the competent authority could not have appointed an Inquiry Officer without first considering the reply of the petitioner and granting a personal hearing as mandated under Rule 7(5) of the Haryana Civil Services (Punishment & Appeal) Rules, 2016. The entire proceedings are, thus, contrary to the principles of natural justice.



12. In view of the above discussions, the present petition is allowed. The impugned charge-sheet dated 13.03.2019 (Annexure P-2) and the order dated 22.04.2021 (Annexure P-11) appointing the Inquiry Officer (Annexure P-11) are hereby quashed.

13. Pending miscellaneous application, if any, also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

26.11.2025
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No