



CWP-15023-2023

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Serial No.238

CWP-15023-2023

Decided on:01.12.2025

Dharamvir Singh Sangwan

. . . Petitioner

Versus

State of Haryana and others

. . Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Arjun Sangwan, Advocate and
Mr. Divanshu Jain, Advocate
for the petitioner.

Mr. Rohit Arya, Additional Advocate General, Haryana.

TRIBHUVAN DAHIYA, J.(ORAL)

The petition has been filed *inter alia* seeking a writ of *certiorari* quashing the chargesheet dated 29.05.2023, Annexure P-7, issued to the petitioner being violative of Rule 2.2 (b) (2) of the Punjab Civil Services Rules, 2016, as applicable to the State of Haryana (hereinafter referred to as 'the 2016 Rules'). Further, a direction has been sought to release the amount of leave encashment withheld on that account.

2. Learned counsel for the petitioner contended that the petitioner retired from service as Principal, Government Polytechnic Education Society, Sanghi, Rohtak, on 31.03.2023. Subsequent thereto, impugned chargesheet dated 29.05.2023 was issued to him on the allegations that he had not complied with instructions issued by the Department vide memo dated



14.01.2011, regarding inspection of coaching centers for the Scheduled Caste students. It required checking of attendance records prepared by the centers, physical presence of students at the time of visits, availability and relevance of course material, etc. The inspection report sent by the petitioner, dated 25.03.2011, with regard to the coaching center at Decent School, Partap Chowk, Rohtak, statedly contained names and addresses of students which did not match with the attendance register, nor could identity of those students be established. He further contended, since the chargesheet pertained to an event that had taken place more than four years prior to the date of petitioner's retirement, the Department was forbidden from taking any disciplinary action in terms of Rule 2.2 (b) (2) of the 2016 Rules, and the chargesheet was liable to be set aside on this score alone.

3. Learned State counsel is not in a position to dispute the facts aforementioned regarding the impugned chargesheet. He, however, submitted that the Department got an inquiry conducted by the State Vigilance Bureau regarding financial irregularities and excess payment made to a firm for providing coaching. The Vigilance submitted an inquiry report, dated 03.10.2013, Annexure R-2, which was forwarded to the respondent/Department for appropriate action vide letter, dated 21.06.2022. The report concluded that inspection of the coaching center had not been conducted as per the inspection proforma of Technical Education Department, and the names and addresses of students were not provided. Due to this identity of the students and teachers could not be established, and the concerned Principal was liable for the same. He also contended that an FIR under Sections 201, 420, 467, 468, 471, 120-B IPC and Section 13(1) (D) of



the Prevention of Corruption Act, 1988, was registered in the matter and, therefore, the Department was entitled to withhold the benefit of leave encashment to the petitioner.

4. Submissions made by learned counsel for the parties have been considered.

5. As per the facts apparent on record, the petitioner retired from service as Principal on 31.03.2023, and the impugned chargesheet has been issued to him on account of certain irregularities in an inspection report concerning a Scheduled Caste students' coaching center, dated 25.03.2011. Rule 2.2 (b) (2) of the 2016 Rules clearly provides that the Department cannot initiate disciplinary proceedings against a retired employee for an incident or event that has taken place more than four years prior to his date of retirement. It has been so held by a Division Bench of this Court also in *Sub Inspector Puran Chand (Retd.) v. State of Punjab and others*, with reference to the service rules applicable to the Punjab Government employees, which undisputedly are *pari materia* to the 2016 Rules. The judgment reads as under:

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.

8. Learned counsel for the petitioner has also placed reliance on a decision rendered by this Court in *Narinder Dev Sharma v. State of Punjab* and another, 1996(2) Service Law Reporter 270: 1996(1) SCT 623 (P&H), wherein this court has also come to the conclusion that the Disciplinary Authority is empowered to initiate disciplinary action, against an employee even after his retirement, subject to the condition, that the enquiry pertained to an incident not more than four years prior to the date of initiation of the enquiry. We fully endorse the decision referred to above and hold that initiation of enquiry in the instant case after retirement of the petitioner in respect of the allegation which pertained to the period about 10 years prior to the initiation of the charge sheet, is barred under the provisions of clause (2) of rule 2.2(b) extracted above.

6. The attempt by the respondents to justify the chargesheet on the ground that the Vigilance inquiry in the matter had been initiated prior to the date of retirement, and its report regarding irregularities was also received prior thereto, is misdirected. As per settled law, the initiation of departmental proceedings is with issuance of the chargesheet. And as discussed hereinbefore, in case of a retired employee, like the petitioner, it cannot be for an incident that has taken place more than four years prior to his retirement. The chargesheet in question relates to irregularities in a report, dated 25.03.2011, submitted by the petitioner regarding inspection of a Scheduled Caste students' coaching center; and the Vigilance inquiry report in that regard is dated 03.10.2013. Apparently, the incident happened more than a decade prior to the petitioner's retirement on 31.03.2023, and the chargesheet was issued thereafter on 29.05.2023. This was impermissible under Rule 2.2

**CWP-15023-2023****-5-**

(b) (2) of the 2016 Rules. Further, registration of the FIR in the matter is also not a ground to withhold retiral benefits due to the petitioner. He has not been chargesheeted in the criminal case, nor has any Court taken cognizance of the offence against him; instead, it is the respondents' own case in the written statement that the FIR in question has not been lodged against him. Therefore, both the contentions raised by learned State counsel are misconceived, as stand rejected.

7. In view of the discussion, the petition is allowed. The impugned chargesheet, dated 29.05.2023, is set aside and the respondents are directed to release the outstanding amount of leave encashment to the petitioner with interest at the rate of nine per cent per annum from the due date to the date of actual payment, within four weeks of receiving a certified copy of the order.

01.12.2025*Mehak***(TRIBHUVAN DAHIYA)
JUDGE**

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