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

Date of Decision : 21-05-2025

**1. CM-7909-CWP-2025 in/and
CWP-18906 of 2024 (O&M)**

MUKESH KUMAR GOELPetitioner

VERSUS

STATE OF PUNJAB AND ANRRespondent(s)

and

2. CWP-19255 of 2024 (O&M)

NARINDER PAL SINGHPetitioner

VERSUS

STATE OF PUNJAB AND ANRRespondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

**Present: Mr. Sarthak Gupta, Advocate
for the petitioner(s).**

**Mr. Himanshu Raj, Addl. A.G. Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-7909-CWP-2025 in CWP-18906 of 2024 (O&M)

**This is an application for placing on record the order dated
10.08.2024 as Annexure P-9.**

Keeping in view the contents mentioned in the application, the same is allowed. Order dated 10.08.2024 (Annexure P-9) is taken on record subject to all just exceptions.

CWP-18906 of 2024 (O&M) and CWP-19255 of 2024 (O&M)

1. Present are the set of two writ petitions, the details of which are mentioned in the heading involve common question of law in the context of common set of facts and thus they are being decided by a common order.

2. In the present set of petitions, the challenge is to the chargesheets which have been issued to the petitioner(s) after their retirement on the ground that keeping in view the Rule 2.2 (b) of the Punjab Civil Services Rules, Volume-II, no chargesheet can be served upon the employees on the allegations which are more than 4 years old on the date when the chargesheet is served and in the present set of cases, the charges which have been sought to be enquired into after the retirement of the petitioner(s) relates to more than 4 years old on the date when the chargesheet was served hence, keeping in view the settled principle of law settled by this Court in *CWP-12564-2021 titled "Raghubir Singh Vs. State of Punjab and ors."* decided on 22.08.2024.

3. Learned counsel for the respondent-State on the other hand submits that though, it is a conceded position that the allegations relates to a period which are more than 4 years old on the date when the chargesheet was served but as the preliminary enquiry into the allegations were pending and the same was only finalised in the year 2023, the action was taken against the petitioner(s) despite their retirement hence, the order passed by the authorities concerned declining the petitioner(s) to claim the benefit of

the Rule 2.2 (b) of the Punjab Civil Services Rules, is perfectly valid and legal.

4. I have heard learned counsel for the parties and have gone through the records of the present set of cases with their able assistance.

5. Keeping in view the fact that the retired employee should not be harassed after retirement so as to allow them to lead a dignified life, certain benefits have been provided under the Rule 2.2 (b) of the Punjab Civil Services Rules, Volume-II. Rule 2.2 (b) of the Punjab Civil Services Rule, Volume-II relates to the issuance of a chargesheet to a retired employee. As per Rule 2.2 (b) only the action can be taken with regard to an incident which is not more than 4 years old at the time of the issuance of the disciplinary proceedings. The same is reproduced hereunder:-

“Rule "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 preceding, the pensioner is found guilty of grave misconduct 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; and

(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service would be made in relation to the officer during his service.

(3) No such judicial proceedings, if not instituted while the officer in service, whether before this retirement or during his re-employment shall be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution; and The Public Service Commission should be consulted before final orders are passed.

Explanation. For the purpose of this rule -

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

(b) a judicial proceeding shall be deemed to be instituted

(i) in the case of a criminal proceeding, on the date on which the complaint or report of the police officer on which the Magistrate takes cognizance, is made; and

(ii) in the case of a civil proceeding, on the date of presentation of the plaint in the court."

(c) (1) Whether any departmental or judicial proceeding is instituted under clause (b) of rule 2.2 or where a departmental proceeding is continued under clause (i) of the proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, he shall be paid during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceedings, final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service up to the date of retirement or if he was under suspension on the date of retirement up to date immediately preceding the date on which he was placed under suspension; but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and of final orders thereon.

The gratuity, if allowed to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of final orders by the competent authority."

Provided that where Departmental proceedings have been instituted under Rule 10 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 for imposing any of the penalties specified in clauses (i), (ii) and (iv) of rule 5 of the said rules, the payment of gratuity or death-cum-retirement, as the case may be, shall not be withheld.

(2) Payment of provisional pension made under sub-clause (1) shall be adjusted against the final retirement benefits sanctioned to such officer upon conclusion of the aforementioned proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional

pension. or the pension is reduced or withheld either permanently or for a specified period.

Note. The grant of pension under this rule shall not prejudice the operation of rule 6.4 ibid when final pension is sanction upon conclusion of the proceedings."

6. In the present set of cases, the charge-sheet have been served upon the petitioner(s) after their retirement on 05.01.2024 in CWP No.18906 of 2024 and on 29.12.2023 in CWP No.19255 of 2024. The allegations relates to the period March to November, 2018 with regard to construction of a particular road.

7. Once, the allegations are concededly of the period from March to November, 2018, issuance of a chargesheet on the said allegations after the retirement of the petitioner(s) is beyond the jurisdiction of the respondents as, the allegations relate to a period which are beyond the period of 4 years as envisaged under Rule 2.2 (b) of the Punjab Civil Services, Volume-II.

8. Learned counsel for the respondent-State has not been able to rebut the same.

9. The argument which has been raised by the learned State counsel is that the preliminary enquiry into the allegations was being carried out and the same was only finalised in the year 2023 so as to decide whether any misconduct was committed by the petitioner(s) while in service hence, the period of 4 years should start from the completion of the preliminary enquiry.

10. It may be noticed that once, the Rule 2.2 (b) of Punjab Civil Services, Volume-II clearly states that on the date when the chargesheet is

served, the “*allegations should not be more than 4 years old*” merely that the respondents took 5 years to complete the preliminary enquiry, will not give them jurisdiction to hold a departmental proceedings against a retired employee. The arguments is contrary to the Rule 2.2 (b) of the Punjab Civil Services, Volume-II giving jurisdiction to the State to start with the disciplinary proceedings against a retired employee.

11. Learned counsel for the respondent-State has not been able to rebut that keeping in view the judgement in ***Raghubir Singh’s case (supra)***, the chagesheet served upon the petitioner(s) is beyond the jurisdiction of the respondent-State.

12. Keeping in view the above, the chargesheets issued to the petitioner(s) in CWP No.18906 of 2024 dated 05.01.2024 and in CWP No.19255 of 2024 dated 29.12.2023, are set aside along with the consequent proceedings, if any already held.

14. Present set of petitions are allowed in above terms.

15. Pending application, if any, also stands disposed of.

16. Photocopy of this order be placed on the file of other connected case.

21-05-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO