2026:PHHC:086536

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

**CWP-9986-2019
Date of Decision:27.05.2026**

NIRANJAN SHARMA **-PETITIONER**

V/S

DISTRICT AND SESSIONS JUDGE AND ANOTHER
-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Sanjiv Gupta, Sr. Advocate with
Mr. Lavish, Advocate for
for the petitioner.

Ms. Munisha Gandhi, Sr. Advocate with
Ms. Shubhreet Kaur, Advocate and
Ms. Manveen Narang, Advocate,
for the respondents.
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<u>KULDEEP TIWARI, J. (Oral)</u>

1. Through the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has challenged the charge-sheet dated 06.11.2018 (Annexure P-1), and the order dated 14.03.2019 (Annexure P-7), whereby the disciplinary authority appointed an Inquiry Officer to conduct disciplinary proceedings against the petitioner. The challenge has been, primarily, made on the ground that the impugned charge-sheet and the consequential order are in violation of Rule 2.2(b) of the Punjab Civil Services Rules, 1970 (hereinafter referred

to as “the Rules of 1970”).

2. The entire case is predicated upon the issuance of the charge-sheet after a lapse of four years from the date of the petitioner's retirement, in respect of an event which, undisputedly, had occurred more than 12 years and 10 months prior to the issuance of the said charge-sheet.

3. The question that arises for consideration in the present case is, as to whether, the disciplinary proceedings could have been validly initiated against the petitioner by serving the impugned charge-sheet?

4. For the adjudication of the instant case, some of the relevant facts, which are required to be considered, at this stage, are as under:-

i. The petitioner was appointed in the Judicial Department, Punjab, on 22.11.1977. While serving as Reader Grade-III, he submitted an application seeking voluntary retirement through the proper channel. The said application was accepted by the competent authority and, consequently, the petitioner stood voluntarily retired from service with effect from 31.10.2012.

ii. Thereafter, on 06.11.2018, the respondent-department issued a charge-sheet to the petitioner under Rule 8 of the Rules of 1970, alleging that he had erroneously fixed the pay of one Manjeet Singh, Stenographer Grade-I, in the revised pay scale, thereby causing financial loss to the State exchequer.

It is pertinent to note that the alleged act of incorrect pay fixation pertains to 01.01.2006, i.e., more than twelve years prior to the issuance of the impugned charge-sheet and nearly six years after the petitioner had retired from service.

5. Learned Senior Counsel for the petitioner, while assailing the action of the respondent-department in issuing the charge-sheet after the petitioner's retirement, has placed heavy reliance upon Rule 2.2(b)(ii) of the Rules of 1970. It is contended that the said provision creates an absolute bar against the institution of departmental proceedings in respect of an event which had taken place more than four years prior to the initiation of such proceedings.

6. Elaborating his submissions, he contends that the petitioner retired from service on 31.10.2012, and that no departmental proceedings were initiated either during his service tenure from 1977 to 2012 or within four years of his retirement. Consequently, the impugned charge-sheet, having been issued much beyond the period prescribed under Rule 2.2(b)(ii) of the Rules of 1970, is liable to be quashed.

7. He further submits that submits that the petitioner was serving as Reader Grade-III, and did not possess S.A.S. qualifications. According to him, the pay fixation in question was actually carried out by one Tirath Goyal, Naib Nazir-cum-Dealing Clerk, who prepared and

processed the relevant fixation. However, no action has been taken against the said official. Instead, the respondents have adopted a selective and discriminatory approach by proceeding only against the petitioner.

8. He further argued that the petitioner was only a stand-in on 01.01.2006, when the regular Civil Nazar was on leave. The relevant file was placed before him on routine basis, and there was no occasion for him to suspect any error in the pay fixation. He further submits that the accounts of the respondent-department, including the pay fixation in question, were audited by the office of the Accountant General on two occasions, i.e. during the periods 2007–2009 and 2010–2012, yet no objection was raised at that time. Further, throughout his unblemished service career spanning 34 years, the petitioner never suffered any adverse entry, which itself belies any allegation of deliberate misconduct or gross negligence on his part.

9. He next submits that one of the key witnesses, Manjit Singh, expired in the year 2009. As a consequence, the petitioner has been seriously prejudiced in effectively defending himself against allegations pertaining to an event that occurred nearly 12 years ago. Such inordinate delay, is violative of the principles of natural justice.

10. Finally, he submits that the allegations levelled against the petitioner do not disclose any grave misconduct warranting the initiation of departmental proceedings after an extraordinary delay of more than twelve years from the date of the alleged occurrence. Therefore, the

impugned charge-sheet and the consequential proceedings deserve to be set aside.

11. *Per contra*, learned Senior Counsel appearing on behalf of the respondent-department has sought to invoke the "knowledge rule" and contends that the alleged erroneous pay fixation came to the notice of the respondent-department only when it was pointed out by the Accountant General (A&E), Punjab, vide communication dated 30.09.2015. It is, therefore, argued that the period of limitation, if any, ought to be reckoned from the date on which the irregularity came to the knowledge of the respondent-department, and not from the date of the alleged event, i.e., 01.01.2006.

12. She further submits that the petitioner was promoted/appointed as Senior Assistant on 24.12.1998, on the basis of seniority-cum-merit and had acquired nearly eleven years of experience on the said post by the year 2009. It is, therefore, contended that the petitioner cannot be permitted to plead ignorance of the applicable rules governing pay fixation, and was fully expected to be aware of the procedure and norms regulating such fixation.

13. She further highlights the fact that there is no post of State Accounts Service (SAS), in the judicial department of Punjab, and that the pay fixation of the employees are ordinarily done by the Senior Assistants. Therefore, the petitioner cannot seek to avoid responsibility by pleading lack of knowledge of the applicable rules governing pay

fixation. On account of erroneous act of the petitioner, the respondent-department has suffered substantial financial loss to the tune of Rs.90,008/-, therefore, it warrants initiation of departmental proceedings against the petitioner. The disciplinary authority, only after finding the petitioner's reply unsatisfactory decided to appoint inquiry officer, vide order dated 14.03.2019, and there is no illegality or irregularity requiring interference by this Court.

14. This Court has heard learned Senior Counsel for the parties at length and carefully considered the rival submissions advanced on behalf of both sides.

15. Since the entire argument of learned senior counsel for the petitioner revolves around the provisions of Rule 2.2(b)(ii) of the Rules of 1970, therefore, the same is extracted hereinafter:-

> "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 the pensioner is found in departmental or judicial proceedings, to have been guilty of grave misconduct or to have caused pecuniary loss to Government by misconduct or negligence, during his service including service rendered on reemployment 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 rule and shall be continued and concluded by the authority by which it was commenced in the same manner and as if the officer had continued in service,
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> (2) such departmental proceedings, if not instituted while the officer was on duty either before retirement or during re-

employment—
(i) shall not be instituted save with the sanction of the Government;
(ii) shall be in respect of an event which took place not more than four years before the institution of such proceedings; and
(iii) shall be conducted by such authority and at such place or places as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made;
(3) such judicial proceedings, if not instituted while the officer was on duty either before his retirement or during his re-employment, shall be instituted in respect of an event as is mentioned in clause (ii) of proviso (2); and
(4) The Public Service Commission shall be consulted before final orders are passed. "

16. A perusal of the aforesaid Rule clearly indicates that no departmental proceedings can be initiated against an officer, whether during his service, prior to retirement, or during re-employment, in respect of an event which had occurred more than four years prior to the initiation of such proceedings.

17. It is an undisputed fact that the charge-sheet dated 06.11.2018 has been issued after a lapse of 12 years and 10 months from the date of the alleged occurrence, and thus far beyond the statutory period of four years prescribed under the Rule. The language of Rule 2.2(b)(ii) of the Rules of 1970, is clear, unambiguous, and admits of no exception in this regard.

18. At this juncture, this Court can safely place reliance upon a judgement rendered in **'R.C. Gupta vs. PSEB' 2002 (1) SCT 1136,** whereby a Division Bench of this Court, rejected the 'knowledge rule' and

held that the period of limitation runs from the date of event, not from the date of discovery thereof, and not even from the date of communication. The relevant is extracted hereinafter:-

> "7. Faced with this difficulty the learned counsel for the respondent submitted that earlier it was not to the knowledge of the respondent with regard to the illegalities committed by the petitioner as the matter was pending with the Vigilance Department and on coming to known from the Vigilance Department the respondent authorities had initiated the action against the petitioner. But we are not convicted with the submission raised by the learned counsel for the respondent in view of Rule 2.2(b) of the Punjab Civil Service Rules which states that the departmental proceedings, if not instituted while the officer was in service, whether before his retirement or during his re-employment, shall not be in respect of any event which took place more than four years before such institution. A reading of the rule would show that the defence taken up by the respondent is not open to it. Admittedly, the petitioner has been charge sheeted for the events of 1984 vide charge sheet dated 26.3.1999. Therefore, such charge sheet cannot be sustained in the eyes of law."

19. The aforesaid judgment was, further, followed in **'Sukhjinder Singh vs. Punjab State Civil Supplies Corp.Ltd.' 2016 (2) LH 1322**, wherein, it was held that after retirement, there exists a complete embargo on the initiation of departmental proceedings in respect of an event which had taken place more than four years prior thereto.

20. Both the afore-discussed judgements were again considered by a co-ordinate bench of this Court in **"Kulbhushan Gupta vs. State of Punjab**", (CWP-10138-2020, decided on 12.12.2024). The relevant is extracted hereinafter:-

> "10. Undisputedly, inn the present case, petitioner retired from service on 29.02.2016 and was issued charge charge-sheet on 11.06.2020 vide which he is sought to be departmentally proceeded against for an alleged misconduct committed by him during service from 06.04.2015 to 29.05.2015. The action of the respondents in issuing impugned charge-sheet sheet dated 11.06.2020 is in clear violation of Rule 2.2(b) of the Rules as the alleged mis-conduct mis conduct by the petitioner relates to the period prior to four years from the date of issuance of the charge charge-sheet. There is nothing on record that departmental proceedings against the petitioner were initiated initiated by the respondents within four years prior to his retirement."

21. On the anvil of the aforesaid settled legal position, and upon a plain reading of the unambiguous provisions of Rule 2.2(b)(ii) of the Rules of 1970, this Court has no hesitation in holding that the charge-sheet served upon the petitioner is clearly beyond the prescribed limitation of four years. The same is, thus, in contravention of the aforesaid Rule, inasmuch as the alleged misconduct pertains to the year 2006, whereas the charge-sheet was issued on 06.11.2018.

22. In view of the aforesaid factual and legal position, the charge-sheet dated 06.11.2018, and the consequential order dated 14.03.2019, appointing Inquiry Officer are hereby, **quashed** and **set aside**.

23. Accordingly, the instant petition, is hereby **allowed**.

24. It is important to note that at the time of issuance of notice of motion, the co-ordinate bench vide order dated 12.04.2019, had directed the petitioner to deposit half of the assessed financial loss i.e. Rs.98,000/,

with the Registrar (Judicial) of this Court, which was ordered to be kept in the form of FDR in a nationalised bank to earn interest, to be disbursed subject to the final outcome of this petition. The said order is extracted hereinafter:-

> "Cites Rule 2.2 of the Punjab Civil Services Rules, Vol.II, Part-I.
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> The petitioner took voluntary retirement on 31.10.2012, otherwise, he would have normally retired on superannuation in the year 2013. The total financial implication involved in this case is approximately Rs.98,000/-, of which the petitioner will deposit half the amount before the Registrar (Judicial) of this Court, within a period of two weeks from today, which shall be kept in the form of FDR in a nationalised bank to earn interest to be disbursed subject to the final outcome of this petition.
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> Notice of motion for 20.05.2019.
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> Meanwhile, the inquiry proceedings pending before the learned Additional District and Sessions Judge, Sangrur, shall remain stayed till further orders."

25. Since the instant petition has been allowed, and charge-sheet alongwith the impugned order, has been quashed, therefore, the Registrar (Judicial), is directed to release the aforesaid amount, in favour of the petitioner forthwith, upon moving an apt application by him, in this regard.

(KULDEEP TIWARI)
JUDGE

May 27, 2026
dharamvir

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No