



2026:DHC:4540-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6970/2026, CM APPL. 34264/2026, CM APPL.
34265/2026, CM APPL. 34266/2026

DELHI DEVELOPMENT AUTHORITYPetitioner
Through: Ms. Namrata Mukim, Panel
Counsel DDA and Ms Niharika Singh,
Adv.

versus

MOHD. HAKIM KHANRespondent
Through: Mr. S.K. Gupta, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA
JUDGMENT (ORAL)

% **19.05.2026**

C. HARI SHANKAR, J.

1. This writ petition assails judgment dated 7 October 2025 passed by the Central Administrative Tribunal¹ in OA No. 1959/2020².

2. The proceedings emanate from of a chargesheet issued to the respondent on 4 April 2018, read with a Corrigendum dated 10 April 2018, under Rule 9³ of the Central Civil Services (Pension) Rules,

¹ "the Tribunal" hereinafter

² **Mohd. Hakim v. DDA**

³ 9. Right of President to withhold or withdraw pension

(1) The President reserves to himself the right of withholding a pension or gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of service, including service rendered upon re-employment after retirement:

Provided that the Union Public Service Commission shall be consulted before any final orders are passed:



1972⁴ read with Regulation 25 of the DDA (Conduct, Disciplinary and Appeal) Regulations 1999.

3. Admittedly, the chargesheet was issued on the basis of a complaint received by the DDA on 23 March 2015, which enclosed an earlier complaint of 27 January 2015.

4. The complainant in these complaints alleged that the respondent, along with a peon working under him, came to the complainant's house with a General Power of Attorney, in respect of a plot of land of which the respondent projected himself to be the owner, thereby inducing the complainant to buy the plot.

5. Alleging that this amounted to fraud, an FIR was registered against the respondent and the peon.

6. Following this, the respondent was retired compulsorily under FR 56 (j) on 20 January 2017.

Provided further that where a part of pension is withheld or withdrawn the amount of such pensions shall not be reduced below the amount of rupees three hundred and seventy-five per mensem.]

(2)(a) The departmental proceedings referred to in sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service:

Provided that where the departmental proceedings are instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President.

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

- (i) shall not be instituted save with the sanction of the President,
- (ii) shall not be in respect of any event which took place more than four years before such institution, and....."



7. After the respondent had been thus compulsorily retired, the charge-sheet dated 4 April 2018, from which the present proceedings emanate, came to be issued against the respondent under Rule 9 of the CCS (Pension) Rules.

8. The respondent challenged the aforesaid chargesheet before the Tribunal by way of OA 1959/2020.

9. Before the Tribunal, the respondent restricted his challenge to one argument, which was that the charge-sheet was incompetent, having been issued more than four years after the alleged event which constituted misconduct had taken place, as was required by Rule 9 (2)(b)(ii) of the CCS (Pension) Rules.

10. Accepting this argument, the Tribunal has quashed and set aside the disciplinary proceedings against the respondent *ab initio*.

11. Aggrieved thereby, the DDA has approached this Court by means of the present writ petition.

12. We have heard Ms. Namrata Mukim, learned Panel Counsel for the DDA at length.

13. Ms. Mukim's contention is that the period of four years should be reckoned from the date when the complaint dated 27 January 2015 and 23 March 2015 was received by the DDA, as it was only on that date that the DDA acquired knowledge of the commission of the act of misconduct.



14. The Tribunal has relied on the judgment of the Supreme Court in *State of Bihar v. Mohd. Idris Ansari*⁵, which clearly holds that the period of four years is to be reckoned from the date when the event took place.

15. The relevant paragraphs from *Mohd. Idris Ansari* may be reproduced as under:

“10. So far as the second type of cases are concerned the proof of grave misconduct on the part of the government servant concerned during his service tenure will have to be culled out by the revisional authority from the departmental proceedings or judicial proceedings which might have taken place during his service tenure or from departmental proceedings which may be initiated even after his retirement in such type of cases. But such departmental proceedings will have to comply with the requirements of Rule 43(b). Consequently a retired government servant can be found guilty of grave misconduct during his service career pursuant to the departmental proceedings conducted against him even after his retirement, but *such proceedings could be initiated in connection with only such misconduct which might have taken place within 4 years of the initiation of such departmental proceedings against him.* In the present case, the respondent retired on 31-1-1993 and the show-cause notice was issued on the ground of grave misconduct on 27-9-1993 and not on the ground that service record of the pensioner was not thoroughly satisfactory. It was issued by the State Government as sanctioning authority. It had, therefore, to be read with Rule 43(b). Such notice therefore, could cover any misconduct if committed within 4 years prior to 27-9-1993 meaning thereby it should have been committed during the period from 26-9-1989 up to 31-1-1993 when the respondent retired. Only in case of such a misconduct, departmental proceedings could have been initiated against the respondent under Rule 43(b). In such proceedings, if he was found guilty of misconduct he could have been properly proceeded against under Rule 139(a) and (b). On the facts of the present case it must be held, agreeing with the High Court that the notice dated 27-9-1993 invoking powers under Rule 139(a) and (b) was issued wholly on the ground of alleged past misconduct and was not based on the ground that service record of the respondent was not thoroughly satisfactory. So far as that ground was concerned, on a



conjoint reading of Rule 43(b) and Rule 139(a) *there is no escape from the conclusion that as the alleged misconduct was committed by the respondent prior to 4 years from the date on which the show-cause notice dated 27-9-1993 was issued, the appellant authority had no power to invoke Rule 139(a) and (b) against the respondent on the ground of proved misconduct. Consequently, it had to be held that proceedings under Rule 139 were wholly incompetent.* The High Court was equally justified in quashing the final order dated 13-12-1993 as there is no proof of such a misconduct. *No question of remanding the proceedings under Rule 139(a) and (b) would survive as the alleged grave misconduct could not be established in any departmental proceedings after the expiry of four years from 1986-87, as such proceedings would be clearly barred by Rule 43(b) proviso (a)(ii). Consequently the show-cause notice dated 27-9-1993 will have to be treated as stillborn and ineffective from its inception. Such a notice cannot be resorted to for supporting any fresh proceedings by way of remand.* For all these reasons no case is made for our interference in this appeal. In the result appeal fails and is dismissed. There is no order as to costs.”

(Emphasis supplied)

16. Rule 43(b) of the Bihar Pension Rules, 1950, which was under consideration in *Mohd Idris Ansari*, was *pari materia* with Rule 9(2)(b)(ii) of the CCS (Pension) Rules, and read thus:

6. Having given our anxious considerations to these rival contentions, we find that the decision of the High Court on the facts of the present case is unexceptionable. The earlier notice dated 17-7-1993 by which fresh departmental proceedings were sought to be initiated was rightly quashed by the High Court as it was based on the alleged misconduct of the respondent during 1986-87 which was more than four years prior to the issue of the said notice. Such a notice seeking to initiate fresh departmental proceedings after the retirement of the respondent, was clearly hit by the proviso to sub-rule (b) of Rule 43 of the Rules. Rule 43(b) reads as under:

“(b) The State 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 re-employment after retirement:

Provided that —

(a) such departmental proceedings, if not instituted while the government servant was on duty either before retirement or during re-employment;

(i) shall not be instituted save with the sanction of the State 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 State Government may direct and in accordance with the procedure applicable to proceedings on which an order of dismissal from service may be made;”

17. The specific ground urged by Ms. Mukim before us, already stands advanced before a Division Bench of this Court and emphatically rejected, in *MCD v. Bhagwan Dass*⁶.

18. In the judgment rendered in that case, authored by Dr. A.K. Sikri, J. (as he then was), the Division Bench of this Court has specifically held that the express words of Rule 9(2)(b)(ii) of the CCS (Pension) Rules could not be diluted by the Court. We may reproduce, in this context, paras 4 and 5 of the judgment as under:

“4. The submission of learned counsel for the petitioner is that the complaint was received by the petitioner from the aforesaid two ladies on 17th February, 2002 and 18th February, 2002, and therefore, four years' period should be reckoned from these dates. On that basis, it is argued that chargesheet served on 18th July, 2005 would be within four years. *She argues that since the misconduct came to the notice of the petitioner only when the complaints were received in February, 2002 and the petitioner had no knowledge about this misconduct committed by the respondent earlier, the period of limitation should be counted from these dates.*

5. We are not convinced with the aforesaid argument. *Having*



regard to plain language of Rule 9(2)(b)(ii) the departmental proceedings cannot be instituted in respect of an event which took place more than four years before the institution of the departmental proceedings. The date of knowledge of the event has no place under the said Rule. Had the intention been to provide for the limitation of four years from the date of knowledge, the Rule would have provided so. Moreover, we find such an argument, i.e., that the period from the date of commission of irregularity to the date such irregularity comes to the knowledge cannot be reckoned for ascertaining whether there was any delay in initiating disciplinary proceedings, to have been negated by the Supreme Court in **P.V. Mahadevan v. M.D., Tamil Nadu Housing Board**⁷. Similarly, in **State of Bihar v. Mohd. Idris Ansari**, it was held that the period prescribed for initiation of disciplinary proceedings is to be computed from the date of happening of the event in relation whereunto proceedings are initiated.”

(Emphasis supplied)

19. We are, therefore, unable to fault the Tribunal in holding that the charge-sheet, having been issued to the respondent in respect of an event which took place more than four years prior to the issuance of the charge-sheet, the proceedings were vitiated *ab initio*.

20. The date of acquisition of knowledge of the event is irrelevant, as has been held by the Division Bench of this Court.

21. Ms. Mukim submits, at this juncture, that an FIR was lodged against the respondent on 21 December 2015.

22. We are completely at a loss as to how this is of any relevance. The period of four years, under Rule 9(2)(b)(ii), reckons from the date when the event constituting the misconduct took place. It does not commence either from the date of acquisition of knowledge of the event by the disciplinary authority, or from the date of institution of



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any criminal proceedings against him.

23. As a result, the writ petition is bereft of merit and is therefore, dismissed *in limine*.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

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