

(2014) 07 P&H CK 0288

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 18294 of 2013

Inderpal Singh Malhotra

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: July 28, 2014

Hon'ble Judges: Sabina, J

Bench: Single Bench

Advocate: Deepak Agnihotri, Advocate for the Appellant; Nilesh Bhardwaj, DAG, Amit Rawal, Senior Advocate and Anil Sharma, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Sabina, J.

Petitioner has filed this petition challenging the charge sheets dated 11.6.2013 (Annexure P-4), 18.6.2013 (Annexure P-6) and 12.7.2013 (Annexures P-8 and P-11).

2. Learned counsel for the petitioner has submitted that petitioner had joined the respondents as Assistant Manager in the year 1979 and was promoted as Deputy Manager on 1.9.1984. Petitioner was then promoted as Additional Manager in the year 2006 and was designated as General Manager in the year 2012. Petitioner retired from service as General Manager on 28.2.2012 and was re-employed on contract basis with effect from 1.3.2012 upto 28.2.2013. Petitioner suffered from dengue fever and remained admitted in the hospital from 9.10.2012 to 18.10.2012. However, when the petitioner rejoined his duties, he was relieved from duty on the same day. Petitioner resigned from service on 22.10.2012. On 21.11.2012, petitioner went abroad to visit his son as he had met with an accident. Petitioner was served with the charge sheets in question, although, the incidents qua which the charge sheets had been issued, were four years prior to the retirement of the petitioner. Therefore, the charge sheets in question were liable to be set aside.

3. Learned senior counsel for the respondent-corporation, on the other hand, has opposed the petition and has submitted that the charge sheets in question had

been served in terms of Rule 2.2(b) of Punjab Civil Services Rules, 1970 (for short "Rules").

4. Rule 2.2(b) of the Rules reads as under:-

The Government further reserves 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 an departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including the period of his service, including 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 proceedings 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 could be made in relation to the officer during his service.

3. No such judicial proceedings, if not instituted while the officer was in service, whether before his 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.

5. Let us examine the charge sheets in the present case to come to a conclusion as to whether the same were in terms of Rule 2.2(b) of the Rules, reproduced above.

6. The charge sheets under challenge are Annexures P-4, P-6, P-8 and P-11. A perusal of the said charge sheets reveal that during the period of his posting, petitioner had purchased two vehicles in his own name without getting approval from the competent authority. Petitioner had applied for leave to visit New Zealand from 29.12.2010 to 15.1.2011 and 26.12.2011 to 13.1.2012. The said leave was

sanctioned by the competent authority. Petitioner applied for permanent residency of New Zealand without seeking approval from the head office. Thus, the said charge sheet so far as it relates to the application of the petitioner for permanent residency of New Zealand is concerned, the same cannot be said to be beyond the period of four years from the date of retirement of the petitioner. Further, the allegation against the petitioner is that he had failed to file annual property returns as per the instructions of the head office.

7. It is further the allegation against the petitioner that in an arbitration case of M/s. Ganesh Rice Mills, Khuddi Road, Barnala, award was passed on 24.5.2006 for recovery of Rs. 6,91,055/- along with interest @ 24%. In pursuance to the said award, petitioner was required to file the suit for recovery but he filed the execution petition against the miller. In this regard, order dated 20.3.2007 was passed by the Managing Director. In pursuance to the said order, execution petition under Order 21 Rule 11 of the Code of Civil Procedure, 1908 was filed against the miller by Circle Office, Sangrur. The said petition was dismissed by the Court of Additional District Judge, Barnala vide order dated 18.5.2012. Since the petitioner was negligent in performing his duties, the order dated 18.5.2012 was passed. It is only after the passing of the order dated 18.5.2012, action was liable to be taken against the petitioner. Hence, at this stage, it cannot be said that the cause of action had arisen in the year 2007 and the charge sheet in this regard was liable to be quashed. Rather, the cause of action arose to the respondent-corporation in May 2012 when the execution petition was dismissed on the ground that the execution was not maintainable.

8. The other allegation levelled against the petitioner is that during the period of his posting, he was required to write the Annual Confidential Reports of 20 officers. He was given 20 blank forms on 9.7.2012 but he only furnished Annual Confidential Reports of 18 officers.

9. Another allegation against the petitioner is that he was appointed as an enquiry officer on 25.5.1999 for holding the enquiry against Tarsem Lal Gupta who was charge sheeted vide charge sheet dated 16.12.1999. However, petitioner submitted the enquiry report on 17.2.2009 after about 10 years. Tarsem Lal Gupta filed CWP No. 7203 of 2011 in this Court and while deciding the same on 27.4.2011, this Court ordered that the financial benefits of retirement be released to Tarsem Lal Gupta. Since the financial benefits were not released to Tarsem Lal Gupta, he filed COCP NO. 2563 of 2011. Due to this reason, the corporation had to pay Rs. 1,52,391/- to Tarsem Lal Gupta towards interest. The allegation against the petitioner is that in case he had concluded the enquiry within time, the corporation would have been saved from paying interest to Tarsem Lal Gupta. The said cause of action arose to the corporation in the year 2012.

10. Thus, from the above allegations, it is evident that the petitioner cannot take benefit of Rule 2.2(b) proviso (ii) of the Rules.

11. No ground for interference by this Court is made out.

12. Dismissed.