

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

CWP-10396-2018

Reserved on: 03.11.2025

Pronounced on: **November 07, 2025**

Suresh Jindal

.....Petitioner

**VERSUS**

Punjab State Civil Supplies Corporation Ltd and Another

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present : Ms. Sunaina, Advocate with Mr. H.C. Arora and Mr.G.S. Sandhu,  
Advocate for the petitioner.

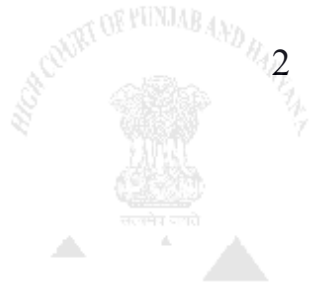
Mr. Ashish Verma, Advocate for the respondents.

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**HARPREET SINGH BRAR, J.**

1. The present civil writ petition has been filed under Article 226 of the Constitution of India seeking the issuance of a writ in the nature of Certiorari to quash three charge sheets dated 27.04.2017 (Annexure P-5), dated 27.04.2017 (Annexure P-6), and dated 17.07.2017 (Annexure P-7), along with all consequent departmental enquiry proceedings. A further direction is sought to restrain the respondents from continuing with the said proceedings.

2. Briefly the facts of the present case are that the petitioner, while serving as an Inspector Grade-2, was convicted and sentenced by the Special Judge, Moga, on 14.10.2013 under the Prevention of Corruption Act. Based on this conviction, the respondent-Corporation passed an order dated 31.10.2013 (Annexure P-1) imposing upon the petitioner the penalty of



dismissal from service and thus terminating his service. Subsequently, the Corporation filed civil suits in 2016 for recovery of alleged financial losses. These suits were later on withdrawn against other co-accused employees with a stated intention to initiate departmental action against them. However, the suits were not withdrawn against the petitioner. Instead, the impugned charge sheets (Annexures P-5 to P-7) were issued to the petitioner in April and July of 2017, nearly four years after his dismissal.

3. Learned counsel for the petitioner *inter alia* submitted that the impugned charge sheets dated 27.04.2017 and 17.07.2017 are legally unsustainable and void *ab initio*. The foundational premise for this challenge is that the relationship of master and servant between the Petitioner and the Respondent-Corporation was conclusively severed upon his dismissal from service vide order dated 31.10.2013. It was further submitted that the disciplinary jurisdiction under the Punjab Civil Services (Punishment and Appeal) Rules, 1970 is predicated on the existence of a subsisting employment relationship, and the penalties enumerated under Rule 5 of the said Rules can only be imposed upon a serving government employee. Once this relationship is terminated by an order of dismissal, the authority to initiate fresh disciplinary proceedings ceases to exist. It was further argued that the provision for post-retirement enquiry under Rule 2.2(b) of the Punjab Civil Services Rules, Volume II, which permits the withholding or withdrawal of pension, is wholly inapplicable to the petitioner's case as the employees of the respondent-Corporation are not governed by any pension



scheme, thereby removing the only statutory basis upon which proceedings against a former employee could be legally sustained.

4. *Per contra*, the learned counsel for the respondents contended that the petitioner's challenge is misconceived and premature that the very basis of the petitioner's argument, the finality of the dismissal order is undermined by the fact that the petitioner himself has challenged the validity of the dismissal order dated 31.10.2013 in a civil suit which is pending adjudication. Consequently, the order of dismissal is sub judice and its legality is under judicial scrutiny. It is further argued that the subsequent charge sheets pertain to distinct acts of misconduct, namely acts of omission and commission committed during the petitioner's service which resulted in pecuniary loss to the Corporation, for which the department is entitled to initiate a separate disciplinary action. He further contends that the respondents were justified in initiating the departmental action against the petitioner as a bona fide exercise of their authority to hold an employee accountable for financial irregularities caused during his tenure, independent of the prior conviction that led to his dismissal.

5. I have heard the learned counsel for the parties and have perused the record with their able assistance.

6. It transpires that when the order dated 31.10.2013 (Annexure P-1) was passed by the respondent, it snapped the *vinculum juris*, the master-servant relationship, between the petitioner and the respondent-Corporation.



7. The pivotal question that falls for this Court's determination is whether an employer can initiate fresh disciplinary proceedings against an employee after the relationship of employer and employee has been irrevocably severed by an order of dismissal.

8. A Three Judge Bench of the Hon'ble Supreme Court in ***Indian Bank v. Mahaveer Khariwal, (2021) 2 SCC 632*** while speaking through Justice M.R. Shah made the following observation,

*"12. Now so far as the submission on behalf of the employer that the acceptance or non-acceptance of the voluntary retirement application is required to be taken before the expiry of the period specified in the notice, i.e., in the present case three months and the same was taken on the last date of the three months' period and date of receipt of the decision/communication is not material, it is true that in the present case the decision was taken before the expiry of the period specified in the notice, i.e., on or before three months (last day of the third month), however, as observed hereinabove, the rejection of the application for voluntary retirement itself is found to be illegal and bad in law. Therefore, the aforesaid shall not affect the ultimate conclusion reached by the Division Bench of the High Court. As observed hereinabove, communication dated 20.04.2004 rejecting the voluntary retirement application was bad in law and contrary to Regulation 29. Therefore, the employee shall be entitled to all retiral benefits on the basis of his voluntary retirement. Once, it is held that he is voluntary retired as per his application dated 21.01.2004 and the rejection of the application of voluntary retirement is held to be bad in law, all other subsequent proceedings of departmental enquiry will be null and void and shall be non est, as after the voluntary retirement, there shall not be an employer-employee relationship."*

9. A Two Judge Bench of the Hon'ble Apex Court in ***State of Bank of India vs. Navin Kumar Sinha 2024 INSC 874*** which while speaking through Justice Ujjal Bhuyan made the following observation,



*“31. As has been held by this Court on more than one occasion, a subsisting disciplinary proceeding i.e. one initiated before superannuation of the delinquent officer may be continued post superannuation by creating a legal fiction of continuance of service of the delinquent officer for the purpose of conclusion of the disciplinary proceeding (in this case as per Rule 19(3) of the Service Rules). **But no disciplinary proceeding can be initiated after the delinquent employee or officer retires from service on attaining the age of superannuation or after the extended period of service.**”*

10. In *State Bank of India vs. A.N.Gupta and Others* {(1997) 8 SCC 60}, the Hon'ble Supreme Court held that once an employee ceases to be in the service of the Bank continuation of disciplinary proceedings against him was not permissible unless there is a specific provision to that effect in the Service Rules.

11. Subsequently the same has been reiterated by the Hon'ble Supreme Court in *Secretary, Forest Department and Others vs. Abdur Rasul Chowdhury* 2009 (7) SCC 305 and *Chairman-cum-Managing Director, Mahanadi Coalfield Ltd vs. Rabindranath Choubey* 2013 (6) CTC 342.

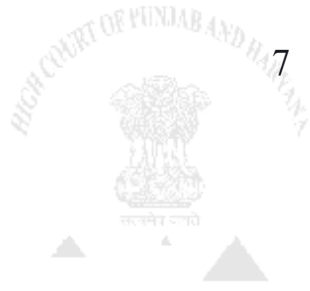
12. A Division Judge Bench of the Patna High Court in *S.P.Tiwary and Ram Das Sinha vs. State of Bihar and Others* {1993 (2) LLJ 1162 (Patna)}, held as under:-

*“4. Having regard to the fact that the petitioners have been superannuated from service, it is not necessary to go into the question as to whether the initiation of the proceedings were mala fide and misconceived. **It is well settled that the power of disciplinary control is a necessary concomitant of employer-employee or master-servant relationship. The disciplinary control of the employer or master continues till such time as the employee is under his employment. Once that relationship ceases to exist, the power of disciplinary control also comes to an end unless there are rules to the contrary. Apart from other reasons, an employee who is no more in the employment of the employer cannot be punished by the employer,***



**because it may not be possible to impose any punishment against him. Obviously, one who is not in employment cannot be demoted in rank, nor can his increment be stopped. He cannot be suspended, nor can he be dismissed. It is, therefore, well settled that the employer can exercise disciplinary control over his employee only so long as the employee is under his employment. That power cannot be exercised after the employee ceases to be his employee in the absence of rules to that effect.**

13. The foundational axiom governing disciplinary jurisdiction is the indispensable requirement of a subsisting jural relationship of master and servant, or employer and employee. This jurisdiction is inherently contingent upon the employee's active status within the organization. Consequently, the moment a legal separation from service occurs, whether through final dismissal, removal, resignation-accepted, superannuation, or any other form of termination, the individual ceases to be subject to the employer's disciplinary control. The authority to initiate or continue disciplinary proceedings is, as a general rule, extinguished at this point. This principle is rooted in the very nature of the confidential and mutual relationship of employment, which cannot be imposed unilaterally once severed. Therefore, absent an explicit statutory provision or a specific clause in the service rules that expressly preserves this power for actions committed during service, an employer is legally incapacitated from commencing or proceeding with disciplinary action against a former employee. Any notion of extending this relationship post-severance cannot be sustained by assumption, legal fiction, or a mere "deeming" provision without clear and unambiguous legal backing. The rules must explicitly provide for such contingencies, such as inquiries continuing after retirement for the specific



purpose of withholding or withdrawing pensionary benefits. In essence, the termination of the contract of service definitively bars the jurisdiction to initiate disciplinary jurisdiction, underscoring that such power is not an inherent or perpetual right but one strictly derived from and limited by the ongoing employer-employee nexus. **Severance of the master-service relation between the employer and employee would incapacitate the employer to start disciplinary proceedings against a former employee in absence of explicit statutory laws enabling it.**

14. In the present case, the respondent-Corporation operates under the Punjab Civil Services (Punishment and Appeal) Rules, 1970. A perusal of Rule 5 of these Rules makes it abundantly clear that the penalties prescribed therein can be imposed only on a "Government employee". The petitioner, having been dismissed in 2013, ceased to be a "Government employee" for the purposes of these Rules long before the issuance of the charge sheets in 2017.

14.1 Learned counsel for the respondents sought to place reliance on Rule 2.2(b) of the Punjab Civil Services Rules, Volume-2, which permits the withholding or withdrawal of pension after retirement under certain conditions. This argument is fundamentally flawed for two reasons:

14.2 First, the petitioner, as an employee of the Corporation, is admittedly not entitled to pension. A provision that deals exclusively with the withholding of a pensionary benefit cannot be invoked against a person who is not eligible for pension in the first place. The rule is a special



provision for a specific situation and cannot be stretched to create a general power to discipline ex-employees.

14.3 Second, even if it were applicable, Rule 2.2(b) only permits action for the specific purpose of withholding pension. It does not, and cannot, confer a blanket authority to issue fresh charge sheets and conduct a full-fledged departmental enquiry against a person who has already been dismissed from service.

15. The legal consequence of the dismissal order dated 31.10.2013 is that the respondent-Corporation became *functus officio* in so far as its disciplinary jurisdiction over the petitioner is concerned. Any attempt to initiate fresh proceedings thereafter is void *ab initio*, *ultra vires*, and without the sanction of law.

16. The foundational employer-employee relationship having ceased to exist, the respondents lacked the jurisdictional authority to issue them. As such the present writ petition is allowed. The impugned charge sheets dated 27.04.2017 (Annexure P-5), dated 27.04.2017 (Annexure P-6), and dated 17.07.2017 (Annexure P-7), along with all consequential enquiry proceedings, are hereby quashed.

17. No order as to costs.

18. Pending application(s), if any, shall stand disposed of.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**November 07, 2025**

P.C

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