

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE ASHISH SHROTI

WRIT PETITION No. 18688 of 2022

HARISHCHANDRA MISHRA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Mr. D.P. Singh - Advocate for the petitioner.

Ms. Ekta Vyas – Panel lawyer for the respondent/State.

WITH

WRIT PETITION No. 21811 of 2021

HARISHCHANDRA MISHRA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Mr. D.P. Singh - Advocate for the petitioner.

Ms. Ekta Vyas – Panel lawyer for the respondent/State.

Whether approved for reporting: Yes/No.

Reserved for order on: 18/08/2025

ORDER

(Passed on 08/09/2025)

The petitioner, who was working on the post of Assistant Labour Commissioner at Gwalior, has filed W.P. No.21811/2021 seeking a direction to the respondents to settle his retiral dues. He has filed W.P. No.18688/2022 challenging the charge sheet, dated 18.07.2022, issued

to him after his retirement. He has also prayed for consequential benefits.

[2]. The facts necessary for decision of these writ petitions are that the petitioner was initially appointed as Labour Officer on 06.10.1989. He was promoted to the post of Assistant Labour Commissioner in the year 1997. He was posted as Assistant Labour Commissioner at Gwalior during the period from 11.03.2019 to 30.07.2020. He was due to retire on attaining the age of superannuation with effect from 31.07.2020.

[3]. Immediately a day before his retirement i.e. on 30.07.2020, the petitioner was placed under suspension on account of allegation of demanding bribe of Rs.8.40 lakh and his headquarter was fixed at Indore. By another order passed on 30.07.2020, a committee was constituted to enquire into the allegations made against the petitioner.

[4]. After lapse of about six months, the respondents sanctioned payment of 50% pension to the petitioner vide order, dated 05.02.2021. Later on, the said order was cancelled and 90% pension was sanctioned to the petitioner vide order, dated 22.06.2021. Later on, the amount towards GPF and Insurance was also paid to the petitioner vide order, dated 12.07.2021.

[5]. The petitioner approached this Court by filing W.P. No.21811 of 2021 praying for direction to the respondents to revoke his suspension and to release full pension, gratuity, leave encashment together with interest on delayed payment. He also prayed for payment of interest on delayed payment of amount of GPF and Insurance.

[6]. During the pendency of aforesaid writ petition, the committee constituted vide order, dated 30.07.2020, enquired into the matter and submitted its report to Labour Commissioner who forwarded the same to Deputy Secretary, Labour Department, Govt. of Madhya Pradesh, Bhopal vide memo, dated 26.09.2020. It is stated by respondents in the return that the committee found the petitioner *prima facie* guilty of allegations leveled against him. It is also stated in the return filed by respondents that, since the petitioner had already superannuated from service, the matter was placed before the Council of Minister for approval of disciplinary action proposed against the petitioner. It is also stated that the Council of Ministers accorded its approval on 07.06.2022. That is how, the charge sheet, dated 18.07.2022, has been issued to the petitioner which has been impugned by petitioner in W.P. No.18688 of 2022. This Court vide interim order, dated 09.09.2022, stayed further proceedings pursuant to impugned charge sheet.

[7]. The facts stated above would demonstrate that the fate of settlement of retiral dues of the petitioner is dependent upon the fate of charge sheet impugned by petitioner in subsequent writ petition. Thus, the challenge to charge sheet made by petitioner in W.P. No.18688 of 2022 needs to be considered first.

[8]. The learned counsel for petitioner, challenging the charge sheet, dated 18.07.2022, submitted that the entire action taken against the petitioner is malafide and in order to deprive the petitioner from his legitimate claim of retiral dues, he was suspended only a day before his retirement. He submitted that for long two years, no action was taken by

respondents and matter was kept pending without any progress. However, as soon as the notice was issued by this Court in earlier writ petition, the impugned charge sheet has been issued.

[9]. The learned counsel further submitted that the impugned charge-sheet is not sustainable in law in view of specific and mandatory provisions of Rule 9(2)(b)(ii) of M.P. Civil Services (Pension) Rules, 1976, inasmuch as the event in relation to which charges have been leveled in the charge-sheet relates back to the period more than 4 years old. In support of his submission, he placed reliance upon judgment of this Court in the case of ***Rakesh Kumar Shrivastava & Ors. Vs. State of M.P. & Ors.*** in ***W.P. No. 10148/2021***. He further submitted that the charges leveled against the petitioner are vague and are incapable of enquiry. In support of his submissions, he placed reliance upon Apex Court judgment rendered in the case of ***Govt. of A.P. & Ors. Vs. Venkata Raidu*** reported in **(2007)1 SCC 338**.

[10]. The learned counsel then, referred to charge sheet wherein he is directed to obtain copy of relevant documents mentioned in charge sheet from the office at Bhopal, and submitted that the charge sheet has been issued without even examining the documents.

[11]. The learned counsel further argued that after the petitioner's retirement, the enquiry can be conducted only in relation to the loss caused to the Government and since there is no charge leveled in this regard, the impugned charge sheet deserves to be quashed.

[12]. On the other hand, the learned counsel for respondents supported the impugned action of the respondents and submitted that the petitioner has been charged with serious charge of taking bribe which is supported by video clipping also and, therefore, it cannot be said that the action has been taken against him with any oblique motive. He further submitted that the petitioner was posted at Gwalior during 11.03.2019 to 30.07.2020 and the charges leveled against him relates to his posting at Gwalior only. Therefore, the charge sheet issued to him on 18.07.2022 is in consonance with provisions of Rule 9 of Pension Rules.

[13]. The learned respondents' counsel further submitted that the charge sheet cannot be quashed merely because the documents are not supplied to the petitioner alongwith charge sheet. He has been asked to collect the documents from the office at Bhopal does not mean that the charge sheet has been issued without examining the documents. He further took this court through the charges leveled against the petitioner as also to the article of charges, and submitted that the charges are clear enough and there is no ambiguity therein. He, therefore, prayed for dismissal of the petition.

[14]. Considered the arguments and perused the records.

[15]. While challenging the charge sheet, dated 18.07.2022, the main thrust of argument of petitioner's counsel is upon provisions of Rule 9(2)(b)(ii) of Pension Rules of 1976. For ready reference, Rule 9 of Pension Rules is reproduced hereunder:

9. Right of governor to withhold or withdraw pension.-(1)

The Governor reserves to himself the right of withholding or

withdrawing a pension or part thereof, whether permanently or for a specified period, and of ordering recovery from pension of the whole or part of any pecuniary loss caused to the Government if, in any departmental or judicial proceeding, 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 the State Public Service Commission shall be con-sulted before any final orders are passed:

Provided further that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below [the minimum pension as determined by the Government from time to time];

(2) (a) The departmental proceedings ³[x x x], 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 Governor, that authority shall submit a report regarding its findings to the Governor.

(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 Gover-nor;

(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:-

(a) in which an order of dismissal from service could be made in relation to the Government servant during his service in case it is proposed to withhold or withdraw a

pension or part thereof whether permanently or for a specified period; or

(b) in which an order of recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders could be made in relation to the Government servant during his service if it is proposed to order recovery from his pension of the whole or part of any pecuniary loss caused to the Government]

[16]. Thus, Rule 9(2)(b)(ii) quoted above provides that a departmental proceeding shall not be instituted after his retirement, in respect of any event which took place more than four years before such institution. It is thus required to be seen as to whether the act alleged against the petitioner in the charge sheet relates back to the period more than four years of issuance of charge sheet.

[17]. From reading the article of charges, particularly in respect of charge no.2, it is gathered that the petitioner was posted as Assistant Labour Commissioner at Gwalior during the period from 11.03.2019 to 30.07.2020 (date of his suspension). The complaint with regard to demand of bribe by petitioner relates to this period of his post at Gwalior. Since, the charge sheet has been issued to the petitioner on 18.07.2022, it cannot be said that the charges are in relation to event which took place more than four years before institution of enquiry.

[18]. The learned counsel for petitioner tried to convince this court by saying that the charge sheet refers to documents of the year 2017-18 which is beyond the ceiling of four years. However, upon minutely reading the charge sheet, it is evident that charge sheet refers to circular,

dated 08.12.2017 whereby detailed instructions were issued by Labour Department in relation to implementation of Skill Training Scheme. However, that would not mean that the act alleged against the petitioner is dated 08.12.2017.

[19]. Thus, the main ground of challenge of the charge sheet is not found to be made out from the record.

[20]. The learned petitioner's counsel then submitted that the charges levelled against the petitioner are vague. However, from reading article of charges annexed with the charge sheet, it is quite apparent that the necessary details have been given in respect of each charge. Even otherwise, this can be a ground of challenging the final outcome of enquiry, if it goes against the petitioner. The reliance placed upon Apex Court judgment in the case of **Venkata Raidu (supra)** is also of no help to the petitioner firstly because the issue was raised in the said case after the conclusion of departmental enquiry. Secondly, the charge levelled against the delinquent in the said case was that he violated the Govt. order. However, the details of Gos were not given in the charge sheet and further such GOs were not even produced before the enquiry officer. In these circumstances, the Apex Court held it to be vague charge sheet.

[21]. However, in the present case, the charge of taking bribe has been levelled against the petitioner in respect of which necessary details are given in article of charges. Except by stating that the charge sheet is vague, the petitioner could not establish the vagueness in the charge sheet in the writ petition. Therefore, this ground of challenge to the charge sheet is also not made out.

[22]. The learned counsel for petitioner next contended that the authority while issuing charge sheet was not having necessary documents before it. In support of his submission, he refers to charge sheet wherein the petitioner has been asked to collect the documents relating to charge sheet from the office of Secretary, M.P. Bhawan Evam Anya Sannirman Karmkar Kalyan Mandal, Bhopal. However, the objection so raised is not acceptable. Merely because the petitioner has been asked to collect the documents from the aforesaid office does not mean that the charge sheet has been issued without verifying the documents. Thus, this argument also has no legs to stand in Court.

[23]. The learned counsel for petitioner then submitted that after the retirement of petitioner, the enquiry can be conducted only in respect of the loss caused to the Government and no punishment can be imposed upon him in absence of any charge regarding loss to the Government. He refers to provisions of Rule 9(1) of Pension Rules in support of his submission. To appreciate the submission of petitioner's counsel, the provisions of Rule 9(1) can be bifurcated as follows:

“9(1). The Governor reserves to himself:

- i. the right of withholding or withdrawing a pension or part thereof, whether permanently or for a specified period, and
 - ii. of ordering recovery from pension of the whole or part of any pecuniary loss caused to the Government
- if, in any departmental or judicial proceeding, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement.”

[24]. A reading of aforesaid provision make it clear that the Governor has right to withhold or withdraw pension or part thereof, whether permanently or for specified period in both the conditions viz. as a measure of punishment on account of proved misconduct and also for recovery of pecuniary loss caused to the Government.

[25]. The view of this Court finds support from the following observations of Apex Court in the case of **Union of India Vs. B. Dev** reported in (1998)7SCC 691. For ready reference and convenience, the relevant extract of this judgment is as follows:-

“11. Rule 9 gives to the President the right of — (1) withholding or withdrawing a pension or part thereof, (2) either permanently or for a specified period, and (3) ordering recovery from a pension of the whole or part of any pecuniary loss caused to the Government. This power can be exercised if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service. The power, therefore, can be exercised in all cases where the pensioner is found guilty of grave misconduct or negligence during the period of his service. One of the powers of the President is to recover from pension, in a case where any pecuniary loss is caused to the Government, that loss. This is an independent power in addition to the power of withdrawing or withholding pension. The contention of the respondent, therefore, that Rule 9 cannot be invoked even in cases of grave misconduct unless pecuniary loss is caused to the Government, is unsustainable.”

[26]. Thus, this contention of petitioner’s counsel is also not accepted.

[27]. Considering the aforesaid, no ground is made out for quashing the impugned charge sheet, dated 18.07.2022. The W.P. No.18688 of 2022 therefore, fails and is hereby **dismissed**.

[28]. As a result of dismissal of aforesaid writ petition, the petitioner is not entitled to get his retiral dues full settled and the settlement of retiral dues would depend upon final outcome of the charge sheet. Consequently, W.P. No.21811 of 2021 also fails and is hereby **dismissed.**

(ASHISH SHROTI)
JUDGE

Vpn/-