

As to whether, an employee who is already retired from service can be charge sheeted or the charge sheet issued to an employee while in service can continue after his retirement, while deciding CWP No.15247 of 2011 titled as *S.C. Jain v. Managing Director Confed and others*, and held as under:-

“A perusal of the aforesaid provisions clearly shows that the penalties, as provided for under the Rules, can be imposed only on an employee, who is drawing salary, either appointed on temporary or permanent basis. The penalties, which can be inflicted, show that the same are also of the kind which can be on an employee in service. None of the punishments, as extracted above, suggest that it can be imposed after an employee has retired from service. The issue as to whether departmental proceedings, even if initiated against an employee during service, can continue after retirement was gone into by Hon’ble the Supreme Court in *Chandra Singh’s case* (supra), wherein it was opined that in the absence of specific Rule to that effect and once an employee is permitted to retire, the proceedings cannot continue. In view of my aforesaid discussion, once no provision in the Rules has been cited, in terms of which the proceedings against retired employee can be initiated, in my opinion, the action of the authorities in issuing charge-sheets to the petitioners after their retirement is without jurisdiction and is liable to be set aside. Ordered accordingly.

Withheld retiral benefits of the petitioners be released within one month.”

*Jogi Ram v. Haryana State Federation of Consumer’s Co-operative Wholesale Stores* (2014-4) PLR 460 held as under:-

“7. On perusal of aforesaid provisions, it is clear that the penalties, as provided under the Rules, 1975, can be imposed upon an employee, who is drawing salary, either appointed on temporary or permanent basis. It is also clear that the penalty can be imposed only on an employee but after retirement, the petitioner cannot be termed as an employee and as such, no penalty can be inflicted upon him.

8. The issue as to whether the departmental proceedings can be initiated against an employee after retirement was gone into by Hon’ble the Supreme Court in *Chandra Singh v. State of Rajasthan and another* 2003(6) SCC 545 and of this Court in *S.S. Arya v. Uttar Haryana Bijli Vitran Nigam, Panchkula and others* 2009(8) SLR 53.

9. It was held in the aforesaid judgements that in the absence of any specific Rule to this effect, no proceedings can be continued/initiated, once an employee is permitted to retire.

Similar view was also held in the judgement of *S.C. Jain’s case* (supra).

10. In view of the facts and law position as mentioned above, it is clear that when there is no provision in the Rules as to the issuance of charge sheet or imposing a penalty upon an employee after retirement, the charge sheet issued to the petitioner is without jurisdiction and the same is liable to be set aside.

11. Accordingly, the present petition is allowed and the impugned charge sheet dated 12.09.2012 as well as the statement of allegations with the charge sheet dated 10.12.2012 are set aside.

The respondents are directed to release the retiral benefits to the petitioner within a period of two months from the date of receipt of certified copy of this order.”