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Public Sector Enterprise can't initiate Disciplinary Action against retired employee if Rules don't expressly enable it : Supreme Court

Yash Mittal 6 Jan 2026



The Supreme Court on Tuesday (January 6) ruled that a public-sector corporation cannot initiate or continue disciplinary proceedings against an employee after retirement in the absence of an express enabling provision in its service regulations.

A bench of Justices JK Maheshwari and Vijay Bishnoi quashed the post-retirement disciplinary action taken against a former employee of the Maharashtra State Warehousing Corporation nearly eleven months after his retirement.

Noting that the Maharashtra Civil Services (Pension) Rules, 1982 ('1982 Pension Rules') and Maharashtra State Warehousing Corporation (Staff) Service Regulations, 1992 don't include an enabling provision to launch disciplinary proceedings against the retired employee, the Court allowed the ex-employee's appeal, holding that "the Corporation had no

jurisdiction to institute the departmental proceedings against the appellant for the alleged misconduct and to direct recovery against him applying 1982 Pension Rules."

Appellant-Kadirkhan Pathan retired as a Storage Superintendent of MSWC on August 31, 2008. Nearly eleven months later, the Corporation initiated disciplinary proceedings alleging financial losses during his tenure, issued a charge sheet in 2010, and in 2017 held him liable for ₹18.09 lakh, withholding ₹4.43 lakh of his retiral dues and ordering further recovery.

Pathan challenged the action, arguing that the MSWC Staff Service Regulations, 1992 did not permit post-retirement proceedings. While the High Court partly upheld the action by restricting withholding to gratuity, Pathan appealed to the Supreme Court.

Setting aside the impugned order, the judgment authored by Justice Maheshwari, citing decisions of Bhagirathi Jena Vs. Board of Directors, O.S.F.C. and Others, (1999) 3 SCC 666 and Girijan Cooperative Corporation Limited Andhra Pradesh Vs. K. Satyanarayana Rao, 2010 15 SCC 322 held that in the absence of a specific enabling rule, disciplinary proceedings lapse upon retirement and retiral benefits cannot be withheld.

In essence, the Court said that if the Public-Sector Enterprises wish to initiate disciplinary proceedings against their ex-employee after their retirement, then an enabling provision needs to be included in the governing rules.

"The impugned departmental proceedings against the appellant are also hereby quashed, and the Corporation is directed to release all the retiral benefits to the appellant within a period of eight weeks. The recovery, if any, made from the appellant in the interregnum, shall also be refunded within the period as specified.", the court ordered.

The appeal was allowed.

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