

(2025) 12 P&H CK 0015

Punjab And Haryana HC

Case No: Civil Writ Petition No. 320 Of 2024

Narpat Singh

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision: Dec. 15, 2025

Acts Referred:

- Constitution Of India, 1950-Article 226, 227, 311
- Punjab Police Rules, 1934- Rule 9.18(1)(c)
- Indian Penal Code, 1860-Section 148, 149, 307, 324, 325, 326, 365, 506
- Arms Act, 1959-Section 25, 54, 59

Hon'ble Judges: Jagmohan Bansal, J

Bench: Single Bench

Advocate: Tapan Yadav, Ravi Partap Singh

Final Decision: Dismissed

Judgement

Jagmohan Bansal, J

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of:

- Order dated 05.12.2023 whereby he has been ordered to retire at the age of 55 years;
- Enquiry report dated 09.12.2021 whereby he has been held guilty of the charges;
- Order dated 22.12.2022 whereby punishment of stoppage of one future annual increment with permanent effect has been imposed upon him; and
- Order dated 07.08.2023 whereby his ACR for the period 2021-2022 has been downgraded.

2. The petitioner at the time of passing impugned order of retirement was holding post of Sub-Inspector. An FIR No.302 dated 03.07.2019 under Sections 148, 149, 324, 325, 326, 365, 307 & 506 of IPC and Sections 25, 54 & 59 of Arms Act, 1959 was registered at Police Station Dabua, District Faridabad against few persons including Rahisudeen. The higher authorities came to know that petitioner has demanded bribe from Rahisudeen. He was placed under suspension and regular departmental enquiry was initiated against him. The enquiry officer found him guilty in his report dated 09.12.2021. He was issued show cause notice proposing stoppage of one future annual increment with permanent effect. He was awarded proposed punishment vide order dated 25.01.2022. He preferred appeal before Commissioner of Police, Faridabad. The Appellate Authority converted the punishment of forfeiture of annual increment with permanent effect into temporary effect. He further preferred revision before Director General of Police (DGP) who dismissed his revision vide order dated 22.12.2022. As per Instructions dated 22.10.2021, the competent authority decided to re-write his ACR for the year 2021-22. The reporting authority vide order dated 07.08.2023 recorded his honesty doubtful and further declared him unreliable and a below average officer. He preferred representation to Commissioner against adverse remarks recorded in the ACR for the year 2021-22. The respondent vide impugned order decided to retire him at the age of 55 years. The said order has been passed in exercise of power conferred under Rule 9.18(1)(c) of Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short PPR).
3. Learned counsel for the petitioner submits that petitioner was awarded punishment of forfeiture of one increment with permanent effect which was reduced to temporary effect by Appellate Authority. It is a case of no evidence. The petitioner was not even Investigating Officer in the alleged case. He never demanded bribe from the complainant. The Inquiry Officer wrongly held the petitioner guilty and thereafter Disciplinary Authority awarded him punishment. The audio recording was wrongly relied upon. Previously the authorities formed an opinion that audio recording cannot be relied upon, however, Inquiry Officer relied upon audio recording and held him guilty. The foundation of adverse remarks in ACR was order of punishment. He was made to retire at the age of 55 years on the basis of adverse remarks in the ACR. In this way, on account of alleged offence of demanding bribe, the petitioner was subjected to punishment of forfeiture of one increment, adverse remarks in ACR and order of retirement at the age of 55 years. The impugned order of retirement, in view of Instructions dated 14.03.2006 issued by DGP could be passed by DGP and it was wrongly passed by DCP, Faridabad.
4. Learned State counsel, during the course of hearing, produced original file which after perusal was returned to him.
5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. The petitioner is relying upon Instructions dated 14.03.2006 issued by DGP. The same authority issued Instructions dated 08.10.2020 whereby it was clarified that order under Rule 9.18(1)(c) of Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short PPR) is not required to be passed by Head of the Department. The said instructions are reproduced as below:-

Sub: Extension in service beyond the age of 55 years.

Memo

Please refer to this office memo No. 7487-7590/E- (III)(2) dated 11.06.2019 on the subject cited above.

2. It has come to the notice that some police units have forwarded cases of police personnel for extension in service beyond the age of 55 years to this office for decision, citing provisions in Haryana Civil Services Rules - 144 issued by the State Government vide their letter No. 32/06/2018-4GSI dated 05.02.2019.

3. In this connection your attention is invited to last paragraph of letter No. 7487-7590/E-III (2) dated 11.06.2019 wherein it has clearly been mentioned that no reference of Civil Service Rules should be made in Show Cause Notice as also in retirement orders.

4. Further, it is intimated that under PPR 9.18 (1), appointing/competent authority has been given power to consider case of police personnel for retirement after attaining age of 55 years. Therefore, case(s) of all the employee(s) are considered by the appointing/competent authority(s) on or after attaining the age of 55 years. Hence, decision to grant extension in service to the police personnel after attaining the age of 55 years will be taken by the authority(s) as it was being taken earlier, i.e. before Issuance of instruction dated 05.02.2019. However, criteria/parameters laid down in the Instruction dated 05.02.2019 shall be considered for taking decision in this regard.

7. The object of compulsory retirement of a Government servant is to weed out the dead woods in order to maintain efficiency and initiative in the service as well as to dispense with services of those whose integrity is doubtful so as to preserve purity in the administration.

8. Honble Supreme Court in State of Gujarat v. Umedbhai M. Patel, 2001 (3) SCC 314 has elaborated principles which ought to be followed in the matters relating to compulsory retirement. The relevant extracts of the judgment read as: -

11. The law relating to compulsory retirement has now crystallised into definite principles, which could be broadly summarised thus:

(i) Whenever the services of a public servant are no longer useful to the general administration, the officer can be compulsorily retired for the sake of public interest. (ii) Ordinarily, the order of compulsory retirement is not to be treated as a punishment coming under Article 311 of the Constitution.

(ii) For better administration, it is necessary to chop off dead wood, but the order of compulsory retirement can be passed after having due regard to the entire service record of the officer.

(iii) Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.

(iv) Even uncommunicated entries in the confidential record can also be taken into consideration.

(v) The order of compulsory retirement shall not be passed as a short cut to avoid departmental enquiry when such course is more desirable.

(vi) If the officer was given a promotion despite adverse entries made in the confidential record, that is a fact in favour of the officer.

(vii) Compulsory retirement shall not be imposed as a punitive measure.

9. The power to pass order of premature retirement is an absolute discretion of the competent authority. The said power cannot be exercised in a whimsical and arbitrary manner. There should be application of mind. From the perusal of record, it is evident that competent authority has considered last 10 ACRs of the petitioner. The authority has also considered pending/concluded departmental proceedings. The said authority has also noticed punishments awarded to petitioner and their ultimate fate. The Authority after examining the entire service record has formed an opinion that petitioner should be retired at the age of 55 years. There is neither any allegation nor evidence to the effect that there was mala fide intention on the part of respondents. The order has been passed by competent authority. On one occasion, the Reporting Authority of ACR doubted his integrity. As per instructions issued by the State Government, if integrity of an officer is doubtful, he is bound to be retired on attaining the age of 55 years.

10. Scope of interference in ACR matters is very limited. An Authority is best judge of subordinates strength and weakness. In the absence of material irregularity, the Court cannot substitute opinion of the authorities.

11. Scope of interference while exercising jurisdiction under Articles 226/227 of the Constitution of India in disciplinary proceedings is very limited. The Court has no power to look into quantum of sentence/punishment unless and until Court finds that sentence awarded is disproportionate to alleged offence. It is further settled proposition of law that High Court while exercising its jurisdiction under Article 226 of Constitution of India can look into the procedure followed by authorities. In case,

it is found that enquiry officer or disciplinary authority has not considered any evidence on record or misread the evidence or procedure as prescribed by law has not been followed, the Court can interfere. A two-judge Bench of Hon'ble Supreme Court in Union of India and others vs. Subrata Nath, 2022 LiveLaw (SC) 998 while advertizing with scope of interference under Article 226 of the Constitution of India in disciplinary proceedings has held that departmental authorities are fact finding authorities. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. The Hon'ble Supreme Court has considered its judicial precedents including a two-judge Bench judgment in Union of India and Others v. P. Gunasekaran (supra).

12. With respect to adverse remarks in ACR and punishment of forfeiture of increment, the petitioner is claiming that it is a case of no evidence still he was awarded punishment of forfeiture of one increment with temporary effect. The Inquiry Officer recorded statement of multiple witnesses and examined audio recording. On the basis of available evidence, the Inquiry Officer concluded that petitioner is guilty of demand of bribe. The Disciplinary Authority examined report of Inquiry Officer as well as reply of the petitioner and thereafter inflicted punishment of forfeiture of one increment with permanent effect. The petitioner preferred appeal which was partially allowed and punishment was reduced to forfeiture of one increment with temporary effect. The Revisionary Authority dismissed his revision. There is no irregularity in the procedure followed by Authorities. The petitioner was granted full opportunity to put forth his stand. The impugned order was passed on the basis of evidence on record. Any order setting aside impugned punishment orders would amount to substitution of opinion of Authorities which is impermissible. There is no factual or legal infirmity in impugned punishment orders warranting interference.

13. There is another aspect of the matter. The petitioner was relieved on 05.12.2023. A period of two years has passed away and he could be granted extension of maximum three years. Had the impugned order not been passed, the petitioner would have worked for three more years. He was part of Haryana Police Force and his service was pensionable, thus, he must have received pension which is 50% of last drawn salary. He had not worked during said period, thus, there is no justification to pay 100% salary.

14. In the wake of aforesaid discussion and findings, the instant petition deserves to be dismissed and accordingly dismissed.