

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 18044 of 1995 (O&M)

Date of decision : 9.9.2015

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SI Mohinder Singh

.....Petitioner

vs.

State of Haryana and others

.....Respondents

Coram: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Ravi Sharma, Advocate and
Mr. S.K. Sharma, Advocate for the petitioner.

Mr. Sourabh Mohunta, Deputy Advocate General,
Haryana.

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1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

P.B. Bajanthri, J.

In this petition, the petitioner has questioned the order dated 5.5.1995 (Annexure P-11), by which he has been reverted to the rank of U.G.C. with reference to the date of his retirement as 31.5.1995 while repatriating his services to his parent unit by the IGP/CID, Haryana.

(2) Petitioner was selected and appointed to the post

of Constable in the Haryana Police. He was taken on deputation to CID Wing of Police w.e.f. 25.5.1970. While he was on deputation to CID Wing, he was promoted to the post of Head Constable, Assistant Sub Inspector of Police and Sub Inspector of Police on 1.1.1976, 13.7.1981 and 10.10.1986, respectively.

(3) He was to attain the age of superannuation and retire on 31.5.1995. At this juncture, IGP/CID, Haryana, on 5.5.1995 reverted the petitioner from the post of Sub Inspector to the rank of U.G.C. while stating that his promotion was against CID vacancy and the post held by the petitioner was on deputation and on his repatriation he was to be reverted to the rank of U.G.C. vide Annexure P-11. In view of the reversion and repatriation order dated 5.5.1995, the petitioner's retiral benefits have been disbursed in the rank of U.G.C. instead of Sub Inspector of Police. Feeling aggrieved by the order of reversion, the petitioner has presented this petition.

(4) Learned counsel for the petitioner submitted that order of reversion is without notice and the same has been passed on 5.5.1995 with reference to his date of retirement as 31.5.1995. It was submitted that while he was in the CID Police Wing, he has earned promotions to the cadre of Head Constable, Assistant Sub Inspector of Police and Sub Inspector of Police, during the period from 1976 to 1986. It was also submitted that in the cadre of Sub Inspector, the petitioner has served nearly 9 years, therefore, in the guise of repatriating the petitioner's services to his parent Unit, reverting him from the post of Sub Inspector to that of U.G.C. is highly arbitrary and illegal.

(5) Learned counsel for the petitioner relies on the decision of the Hon'ble Supreme Court reported as **State of Punjab vs. Inder Singh**, 1997 (8) SCC 372. The Apex Court while considering the identical facts and circumstances, directed the respondents to obtain option who have put in 20 years qualifying service to seek voluntary retirement from CID in the ranks they are holding and it was held that all those employees will be deemed to have worked in CID upto the date of the judgment. In view of the said judgment, the service rendered in the CID has been recognized for the purpose of granting retiral benefits.

(6) Learned counsel for the respondent contended that the petitioner was on deputation to CID from 25.5.1970. No doubt, he was promoted to the cadre of Head Constable, Assistant Sub Inspector of Police and Sub Inspector of Police in the CID Wing, which is a borrowing Unit Wing (deputation to CID Wing). The benefits which were granted in the borrowing department/Wing, cannot be extended in the parent Unit of the petitioner, therefore, rightly the petitioner has been repatriated and reverted to the post of U.G.C. from the post of Sub Inspector. Therefore, there is no infirmity in the order of reversion – repatriation order dated 5.5.1995. Consequently, rightly retiral benefits of the petitioner were disbursed in the cadre of U.G.C. The petitioner has not made out a case so as to interfere with the impugned order dated 5.5.1995, issued by IGP/CID, Haryana.

(7) Heard counsel for the parties.

(8) It is undisputed that the petitioner was on deputation to CID Wing w.e.f. 25.5.1970 and he was promoted to the cadre of Head Constable, Assistant Sub Inspector of Police and Sub Inspector of Police. He was working in the CID Wing of Police from 25.5.1970 till 24.5.1995, the date on which he was relieved from the CID Wing pursuant to reversion order dated 5.5.1995 vide Annexure P-11. Ordinarily, the deputation would be for a limited period, say for about 3 to 5 years. In the present case, for more than 2-½ decades, the petitioner was allowed to discharge his duties in the CID Wing of Police on deputation and further he was promoted to three cadres, namely, Head Constable, Assistant Sub Inspector of Police and Sub Inspector of Police. In this background, it is highly unreasonable and arbitrary that the petitioner's services have been reverted to the rank of U.G.C. from the post of Sub Inspector of Police (CID Wing) in the guise of repatriating him to the parent Unit on the score that he is due for retirement w.e.f. 31.5.1995. The impugned order dated 5.5.1995 is to be set aside on the short ground that it was without notice, by the reversion order, there is a civil consequence, like reducing pay of the petitioner from the post of Sub Inspector to that of U.G.C. post and further petitioner would be getting his reduced pension. Therefore, it was duty cast on the IGP/CID, Haryana, before passing the order dated 5.5.1995 that the petitioner should have been heard in the matter.

(9) The order of reversion at the fag end of petitioner's service was not warranted. Having regard to the fact that the

petitioner was working in the CID Wing of Police w.e.f. 25.5.1970 till 24.5.1995, the respondents could have absorbed the services of the petitioner in the CID Wing of Police, in view of 2 ½ decades of service in CID Wing of Police and he being promoted to three cadres, namely, Head Constable, Assistant Sub Inspector of Police and Sub Inspector of Police.

(10) Decision cited by the petitioner's counsel is almost identical, except that in the said decision, the respondents who were on deputation to CID were still in service, therefore, the Apex Court directed the respondents to consider those employees who are on deputation to CID and who have rendered 20 years of qualifying service to seek their voluntary retirement etc. No doubt, a deputationist has lien in the parent Unit, therefore, the petitioner was liable to be repatriated to his parent Unit. At the same time, having earned three promotions and at the fag end of his service, petitioner cannot be reverted to the post held by him in the parent Unit.

(11) In view of these facts and circumstances, order dated 5.5.1995 (Annexure P-11) issued by the IGP/CID, Haryana, is set aside, in so far as reversion from the post of Sub Inspector of Police to the rank of U.G.C. is concerned.

(12) The respondents are directed to treat petitioner retired as a Sub Inspector w.e.f. 31.5.1995 for the purpose of retiral benefits.

(13) The respondents are further directed to refix pension of the petitioner in the cadre of Sub Inspector of Police and to disburse difference of amount of retiral benefits alongwith interest @ 9% per

annum within three months from the date of receipt of a copy of this order, failing which the respondents are liable to pay costs of Rs.10,000/-.

September 9, 2015.
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(P.B. Bajanthri)
Judge