

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9755 of 2002
Date of Decision:-26.04.2017.

Head Constable Udai Bhan

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Kuldeep Sheoran, Advocate for the petitioner.

Mr. Keshav Gupta, AAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, the petitioner has questioned the validity of Annexure P-5 dated 26.6.2002 by which he has been retired compulsorily under Rule 9.18 (2) of Punjab Police Rules, 1934.

Learned counsel for the petitioner submitted that petitioner was appointed as a Constable on 13.3.1976 and he was promoted to the post of Head Constable on 1.6.1990 by means of selection. In the normal course, he was due for retirement in the month of February, 2003 whereas, the petitioner had been retired compulsorily with reference to service record on 26.6.2002. Learned counsel for the petitioner submitted that confidential record which has been cited in the order of compulsory retirement is not supported by any material insofar as integrity and reliability. Therefore, the said remark of integrity and reliability cannot be taken into consideration for the purpose of retiring the petitioner so also with reference to pendency of

the disciplinary proceedings for the offences under the Prevention of Corruption Act. The disciplinary proceedings under the Prevention of Corruption Act the petitioner has been imposed the penalty of censure which was the subject matter of CWP No.15891 of 1998. The censure penalty has been set aside on technical ground and the matter has been remanded to the disciplinary authority for taking further steps in the matter. The other punishments which are taken into consideration is relating to imposing warning in the year 1979, 1987 and 1996. Learned counsel for the petitioner further submitted that petitioner was due for retirement in the month of February, 2003 and the impugned action of retiring the petitioner compulsorily on 26.6.2002 was not warranted for the reasons that few months of service before passing the order of compulsory retirement dated 26.6.2002. It was pointed from the Rule 9.18(2) (ii) and the said Rule is not attracted in the present petitioner's case. To the extent that reputation for corruption, dishonesty or infamous conduct is required clearly established even though no specific instance is likely to be proved. Therefore, the order of compulsory retirement is liable to be set aside.

Per contra learned counsel for the respondents submitted that petitioner's service record relating to period from 22.5.1996 to 31.3.1997 has been taken into consideration and the same has been recorded in the order of compulsory retirement. Learned counsel for the respondents further submitted that during the petitioner service from 1979 to 1996, the petitioner was subjected to 3 disciplinary proceedings in which the penalty of warning has been imposed and the 4th one is censure. Having regard to the language employed in Rule 9.18(2), it is crystal clear that infamous conduct is clearly established even though no specific instance is likely to

be proved. Having regard to the language in the Rule read with the service record of the petitioner, the petitioner has not made out a case for interference with the order of compulsory retirement. Hence, the petition is liable to be rejected.

Heard learned counsel for the parties.

Perusal of Annexure P-5 by which the petitioner has been retired compulsorily under Rule 9.18(2) of the Punjab Police Rules, 1934, the order of retiring the petitioner compulsorily is in order having regard to the remarks of integrity and the petitioner was subject to 4 disciplinary proceedings in which he has been warned in 3 disciplinary proceedings and in one of the disciplinary proceeding censure penalty has been imposed (the same has been set aside in CWP No.15891 of 1998 and the matter is remanded on technical ground). Having regard to the service record of the petitioner read with the decision, no interference is called for in respect of Annexure P-5 by which the petitioner has been retired compulsorily on 26.6.2002. Even reading of Clause 9.18(2) (ii), it is crystal clear that there is an option for consideration of material that is in cases where reputation for corruption, dishonesty or infamous conduct is clearly established even though no specific instance is likely to be proved. The petitioner's case is fully covered by the latter clause.

Consequently, petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

April 26, 2017.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.