

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. CWP No.13718 of 2012 (O&M)

HC Sukhdev Dutt ... Petitioner

Versus

Director General of Police & Others ... Respondents

2. CWP No.22716 of 2012 (O&M)
Date of Decision:17.12.2018

HC Sukhdev Dutt ...Petitioner

Versus

The Director General of Police & Others ...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Yogesh Chaudhary, Advocate for the petitioner

Mr.Harish Nain, AAG, Haryana

RAJIV NARAIN RAINA, J. (Oral)

1. This order will dispose of CWP Nos.13718 and 22716 of 2012 as common questions of law and fact are involved in both the writ petitions.

2. When these matters came up for hearing on 28th October, 2013, counsel for the petitioner and the law officer of the State of Haryana were heard and the following order was passed summarizing the controversy and the case:-

“Heard the learned counsel for the parties, on interim orders.

The integrity of the petitioner was recorded as doubtful for the period from 1.4.2006 to 31.3.2007. These remarks were for the reason of acceptance of illegal gratification as alleged in FIR No.53 dated 4.9.2006 registered under the

Prevention of Corruption Act, 1988. When the adverse remarks were conveyed, a departmental enquiry was also in progress, after the petitioner had been issued a charge-sheet for the reason of acceptance of illegal gratification which was subject matter of criminal trial. The criminal trial has resulted in acquittal of the petitioner. The departmental enquiry also resulted in exoneration of the petitioner. Nothing remains against him, except the bad order of integrity doubtful. In the connected matter i.e. CWP No.22716 of 2012, this Court has stayed the compulsory retirement of the petitioner at the age of 55 years, by interim order dated 19.11.2012. The petitioner would retire on reaching the age of superannuation in 2015. Learned counsel for the petitioner submits that the adverse ACR doubting integrity has been standing in the way of further promotion and was also causa causens of the order of compulsory retirement. Since the base of the adverse ACR stands removed, more so by exoneration in the departmental enquiry, it would be wholly unjustified to keep this adverse ACR in operation detrimental to the interest of the petitioner in matters of further promotion etc. Therefore, in order to secure the ends of justice, the operation of the adverse ACR doubting integrity is stayed, subject to the final result of the writ petition.

Heard. Admit."

3. The petitioner has crossed the age of superannuation on 31.8.2015. The enquiry has led to exoneration and the criminal case to an honourable acquittal. Thus the substratum of the order of compulsory retirement and of the adverse ACR for the year 2006-07 doubting integrity of the petitioner based on the same set of allegations in the criminal case and in the domestic enquiry, the base of the adverse order and the adverse remarks stands removed rendering the order of compulsory retirement legally unsustainable. It may be mentioned that the compulsory retirement order was

stayed by this Court in connected CWP No.22716 of 2012 and the operation of the adverse ACR doubting integrity was also stayed by this Court on 28.10.2013 while admitting the writ petition i.e. CWP No.13718 of 2012, and the same deserves to be made absolute.

4. Accordingly connected CWP No.22716 of 2012 is allowed. The impugned order is quashed.

5. Consequently, CWP No.13718 of 2012 is also allowed. Adverse ACR doubting integrity is set aside so also the show-cause notice (Annex. P-5). The interim order dated 28.10.2013 passed in CWP No.13718 of 2018 is made absolute. Consequential service benefits will naturally follow.

17.12.2018
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No