

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 07.03.2018****CWP No.21711 of 2017**

Roshan Lal

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. S.K.Daaria, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner was acquitted in case FIR No.21 dated 07.10.2009 registered at Police Station State Vigilance Bureau, Gurugram under Sections 7, 8 & 13 of the Prevention of Corruption Act, 1988 by the learned Additional Sessions Judge, Gurugram by giving him benefit of doubt. The learned Additional Sessions Judge in its judgment and order dated 12.06.2012 has observed that complainant - Mahender Singh and the shadow witness Sanjeev Sehrawat have intentionally given false statements in court, which has led to the acquittal of the accused; the complainant, pursuant to which raid was conducted and recoveries etc. made, was in the hand of the complainant; the complainant and the shadow witness signed on all the recovery memos; the complainant admitted having made the statement under Section 164 Cr.P.C., but has resiled and deposed that it was not his voluntary statement; and the complainant and shadow witness, who were aggressively complaining against the accused, took a complete somersault while appearing in the witness-box. Accordingly, the learned

Additional Sessions Judge, while taking cognizance of the offence committed by them, started proceedings under Section 344 of the Cr.P.C. against PW-9 Mahender Singh and PW-14 Sanjeev Sehrawat.

Thus, the judgment is not in clear acquittal and is tainted with overreach. It is based on serious doubt and failure of the State Vigilance Bureau in properly prosecuting the trap case. Besides, the petitioner was departmentally punished for stoppage of two future increments with temporary effect vide order dated 21.03.2013. There is reasonable likelihood that the complainant and the shadow witness were suborned and won over in the trial, as only the petitioner would stand benefited by the somersault of the catalyst witness-complainant. Grave suspicion is aspect enough in considering a case for extension of three years of service beyond 55 in a case of a policeman in the rank of Exemptee Assistant Sub Inspector. Though the departmental enquiry was based on the involvement of the petitioner in the criminal case, but was conducted and concluded holding the petitioner guilty on preponderance of probabilities. Appeal to the Commissioner of Police, Gurugram had failed on 09.06.2013.

It is well settled that the State Government enjoys absolute right under the Rules to retire a Government servant in public interest prematurely without assigning any reason. Compulsory or premature retirement is not a punishment nor does it involve stigma. Involvement of the petitioner in a criminal case casts a dark and ominous doubt on his integrity being a member of the disciplined force. I have no reason to unsettle the order of compulsory retirement based on the service record as brought out in the written statement filed by the Department. The order is neither arbitrary nor illegal nor contrary to law.

The entire service record is relevant for the purpose of compulsory/premature retirement with greater emphasis on the last 10 years record. It is not a case of bias or mala fides imputed in the making of the order. Nor is there any such plea raised. The retirement has been ordered while drawing powers from Rule 144(iii) of the Haryana Civil Services Rules, 2016 and Rule 9.18 (I) (c) Note of the Punjab Police Rules, 1934 as applicable to Haryana. I have, therefore, no hesitation in upholding the order retiring the petitioner prematurely at the age of 55 years, which is neither a stigma nor a punishment. The continued utility of the petitioner in the department is for the authorities to gauge objectively and in public interest.

The judgments relied upon by the learned counsel for the petitioner in Ranbir Singh Vs. The State of Haryana & others, 2009 (1) SCT 625; Khurshid Ahmed Vs. State of Haryana & others, 2013 (3) SCT 589; State of Punjab & another Vs. Sarup Singh, 2004 (1) SCT 442; Rajesh Kumar Vs. Chandigarh Housing Board, Chandigarh, 2017 (3) SCT 629; ASI Krishan Singh Vs. State of Haryana & others [CWP No.8138 of 2012 decided on 15.01.2014] and The State of Haryana & others Vs. ASI Krishan Singh [LPA No.725 of 2014 decided on 14.01.2015]; Abhay Singh Vs. State of Haryana & others, 2017 (1) SCT 642; Ramji Lal Vs. State of Haryana, 2002 (4) SCT 489; Davinder Singh Vs. State of Haryana & others, 2011 (1) SCT 447 have been considered and found to be distinguishable on facts.

For the foregoing reasons, this petition is held to be devoid of merit and is accordingly dismissed.

07.03.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>