

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.18233 of 2019 (O&M)
Date of Decision.08.07.2019

Nirmal Singh

...Petitioner

Vs

State of Haryana and another

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Deepak Agnihotri, Advocate
for the petitioner.

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AMIT RAWAL J. (ORAL)

Prayer in the writ petition is for quashing of impugned order dated 27.06.2019 (Annexure P-8) whereby petitioner has been compulsory retired.

On 31.10.1985, petitioner was appointed as Constable in Haryana Police Department and subsequently promoted to the post of Head Constable and EASI and since then, discharging his duties diligently and honestly.

Mr. Deepak Agnihotri, learned counsel appearing on behalf of petitioner submitted that incident culminating into issuance of impugned order is that in August, 2009 when petitioner was posted as Incharge, PCR No.7, Panchkula received a call directing him to remove fruit vendor stalls creating hindrance on road of Sector 15, Panchkula. Petitioner asked vendors to remove their stalls but one Rahul son of Ramesh Kumar refused and started creating obstruction. Intimation in this regard was sent to Incharge of Police Post. Allegation against petitioner is that accused person i.e. Rahul son of Ramesh Kumar ran away from custody of police, petitioner

stood there as mute spectator and did not intervene to stop Head Constable Jaspal from beating Rahul. On 10.09.2009, departmental enquiry was initiated which culminated in punishment of stoppage of two annual increments with permanent effect vide order dated 13.11.2009 (Annexure P-1) and aforementioned punishment was recorded in Annual Confidential Report (ACR) for the period from 01.04.2009 to 18.11.2009 and another adverse remarks recorded in ACR for the period from 01.04.2010 to 31.03.2011 on account of imposition of punishment of stoppage of one increment with temporary effect awarded vide order dated 15.10.2010, which could not have been taken into consideration for compulsory retirement. Petitioner was issued notice dated 18.05.2015 (Annexure P-6) proposing to compulsory retire him from services under provisions of Rule 9.18(2) of Punjab Police Rules, 1934. A detailed reply/representation dated 12.06.2015 (Annexure P-7) was submitted, however, the same did not carry any weight or considered pragmatically by respondents, resulting into impugned order. In fact, there are no adverse remarks recorded in ACRs of petitioner from 1984 till 2009 and April 2011 till date except two adverse entries that could have not been considered for compulsory retirement.

I have heard learned counsel for petitioner, appraised paper book and of view that there is no force and merit in submissions of Mr. Agnihotri. In fact, as per General Service Rules, ACRs for 10 years have to be considered. It would apt to reproduce adverse entries in ACRs of petitioner and punishment imposed:-

Adverse remarks recorded in ACR for the period from 01.04.2009 to 18.11.2009
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1.	Discipline	In-disciplined
2.	Integrity	Doubtful
3.	Reliability	Un-reliable
4.	Moral Character	Poor
5.	General Character	Was punished in D.E. vide order No.914-19/ST dated 13.11.2009. Also tried to exert extra departmental influence on D/E.

Adverse remarks recorded in ACR for the period from 01.04.2010 to 31.03.2011		
1.	Discipline	In-disciplined
2.	General remarks	“Average” Punishment of stoppage of one annual increment with temporary effect was awarded vide order No.923-27/ST dated 15.10.2010 for exerting undue pressure on the then SP/Panchkula on phone through his relative Surinder Kumar serving in C.A.T. Chandigarh for taking lenient view in D.E. initiated against him.

ACR for the year 2011 is falling within the zone of 10 years, as show cause notice was issued in 2015. Police Constable whose integrity has been found to be doubtful and average on account of indiscipline, cannot be permitted to be retained in service beyond 55 years. The order of compulsory retiring petitioner, thus, in my view cannot be said to be in derogation and contravention of Rule 9.18(2) of Punjab Police Rules, 1934.

No ground for interference is made out.

Writ petition *sans* merit, hence dismissed.

(AMIT RAWAL)
JUDGE

July 08, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No