

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

CWP No.5682 of 2022 (O&M)

Date of Decision.06.07.2022

Prem Chand

...Petitioner

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Pawan Kumar, Senior Advocate with
Mr. Surya Kumar, Advocate
Mr. Ravinder Chaudhary, Advocate
for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

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JAISHREE THAKUR J. (ORAL)

The petitioner herein has approached this Court seeking a writ in the nature of certiorari for quashing order dated 21.02.2022 whereby the petitioner is ordered to be retired prematurely on attaining the age of 55 years.

In brief, the facts are that the petitioner was appointed as Constable with Haryana Police and joined service on 02.12.1998. He was thereafter given the necessary promotion to the post of Head Constable on having passed the Lower School Course and the came to be promoted as Assistant Sub Inspector. In the year 2016, he passed the Upper School Course and became due for promotion as Sub Inspector. By communication dated 14.02.2022, he was issued a notice for his premature retirement on the ground that he had not been found eligible to serve in the Department beyond the age of 55 years on account of adverse remarks that have been recorded in the ACR for the period 15.11.2013 to 31.03.2014, 01.04.2014 to 08.06.2014 and 03.07.2014 to 31.11.2014 since his ACRs recorded as

“honesty not certified/unreliable/average” and “honesty doubtful/unreliable/below average” respectively.

Mr. Pawan Kumar, learned senior counsel assisted by Mr. Surya Kumar, Advocate would submit that the said notice for retirement is wholly unsustainable, as there is nothing on record to establish or prove the fact that the very integrity of the petitioner herein is doubtful or that his performance is 'average' or 'below average'. It is contended that he has been duly promoted from time to time and has had an unblemished career. It is submitted that there is nothing on record or any evidence available to show that integrity of the petitioner herein is doubtful. It is submitted that the petitioner had approached the Civil Court to challenge the adverse entries made in the ACRs for the period 01.01.2014 to 08.06.2014 and 03.07.2014 to 23.11.2014 and the trial court by a detailed order had set aside the adverse remarks made in the ACRs for the period 01.01.2014 to 08.06.2014 and 03.07.2014 to 23.11.2014. It is further submitted that the trial court had set aside the aforesaid remarks primarily on the ground that the respondent-State was not able to establish by way of leading any evidence that the integrity of the petitioner was doubtful or that his work was not upto standard.

Learned senior counsel appearing for the petitioner, at this stage, would also submit that he would be satisfied in case the impugned order is set aside and fresh order is passed by the competent authority in the light of the fact that the Civil Court has itself gone into this issue and has set aside the adverse remarks recorded in the ACRs for the period 01.01.2014 to 08.06.2014 and 03.07.2014 to 23.11.2014. It is further submitted that there are catena of judgments in which it has been held that there has to be

adequate reasons for recording 'integrity' as doubtful of an employee. He would rely upon the very judgments that have been cited by the trial court while setting aside the adverse remarks in the aforesaid ACRs.

Learned counsel appearing on behalf of the respondent-State would argue that there is no infirmity in the order dated 21.02.2022 (Annexure P-2) whereby the petitioner has been ordered to be retired prematurely on attaining the age of 55 years, as the said decision is based on the fact that there were adverse remarks recorded in the ACRs of the petitioner for the period 15.11.2013 to 31.03.2014, 01.04.2014 to 08.06.2014 and 03.07.2014 to 31.11.2014.

I have heard learned counsel for the parties and have perused the impugned order whereby it has been decided to retire the petitioner prematurely on his attaining the age of 55 years. The said decision was taken primarily keeping in account the adverse remarks in the ACRs of the petitioner recorded for the period 15.11.2013 to 31.03.2014, 01.04.2014 to 08.06.2014 and 03.07.2014 to 31.11.2014. However, the judgment passed by the trial court cannot be overlooked whereby the adverse remarks recorded in the ACRs for the period 1.04.2014 to 08.06.2014 and 03.07.2014 to 31.11.2014 have been set aside on the ground that there was no evidence available. Even the adverse remarks that have been made in the ACR for the period 15.11.2013 to 31.03.2014 are 'honesty not certified'. Even a perusal of the adverse remarks made for the reporting period 15.11.2013 to 31.03.2014 would reflect that the column for honesty has been graded as 'honesty not certified' whereas in the general remarks it has been reflected as 'a dishonest and unreliable police official' however, no reasons have been given for arriving at such conclusion.

In view of the aforesaid facts and circumstances, the writ petition is allowed and the impugned order dated 21.02.2022 (P-2) is set aside with liberty to the respondents to pass fresh order by taking into consideration the judgment as passed by the trial court and by reconsidering the record of the petitioner within a period of two months from the date of receipt of certified copy of this order.

(JAISHREE THAKUR)
JUDGE

July 06, 2022

Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No