

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

210

CWP No.732 of 2018

Date of decision: 13.02.2023

BALRAJ SINGH

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. A.S. Tewatia, Advocate
for the petitioner.

Ms. Palika Monga, DAG, Haryana.

RAJ MOHAN SINGH , J.(ORAL)

The Petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari quashing the adverse remarks recorded in the ACR for the period 01.04.2015 to 09.03.2016, rejection of representation vide order dated 23.01.2016, order dated 25.05.2017 vide which revision filed by the petitioner against the adverse remarks was dismissed and order dated 22.12.2017 passed by the Superintendent of Police, Yamuna Nagar, retiring the petitioner permanently on completion of 55 years of age.

Vide the aforesaid order dated 22.12.2017, the petitioner was not found fit to be retained in Government service

beyond the age of 55 years and he was accordingly served with a notice of retirement in terms of Rule 9.18(1)(c), Volume-I, Punjab Police Rules, 1934 as applicable to the State of Haryana read with Rule 5.32 of the Haryana Civil Services Rules. As per Government instructions, an employee should have 70% satisfactory service record and should not have doubtful integrity during the last preceding 10 years for retaining him in Government service beyond the age of 55 years. In case of the petitioner, the Competent Authority on the basis of service record was satisfied that the services of the petitioner were no longer required. While doing so, the Competent Authority placed reliance upon the Annual Confidential Reports of the petitioner w.e.f. 25.04.2006 to 31.03.2017 and the ACR for the period 01.04.2015 to 09.03.2016. In the column of general remarks it was recorded that the departmental enquiry was pending and the petitioner is a corrupt police official. Further a reference was also made to a case bearing FIR No.8 dated 26.08.2015 under Sections 7 and 13 of the Prevention of Corruption Act registered against the petitioner. It appears from the record that the adverse remarks reflected in the Annual Confidential Report for the period 01.04.2015 to 09.03.2016 had its genesis in the aforesaid criminal case. The petitioner has already been acquitted in the aforesaid criminal case by the

Court of Sessions vide judgment dated 29.04.2016. The State of Haryana remained unsuccessful in appeal against the judgment of acquittal and the same was dismissed by the High Court vide judgment dated 11.12.2017. The order of acquittal had already attained finality. In the departmental enquiry held against the petitioner, the petitioner was awarded punishment of stoppage of 4 annual grade increments with cumulative effect vide order dated 24.11.2016. In the appeal filed against the said order, the same was set aside by accepting the appeal vide order dated 10.08.2017 passed by the Additional Director General of Police. The order of punishment was set aside and the petitioner was exonerated.

On the basis of aforesaid proceedings, learned counsel for the petitioner submitted that the adverse remarks for the period 01.04.2015 to 09.03.2016 had no significant value.

Learned counsel for the petitioner also placed reliance upon the order dated 25.02.2021 passed by the Additional Chief Secretary to Government of Haryana, Home Department whereby the adverse remarks recorded in the ACR of the petitioner for the period 01.04.2015 to 09.03.2016 have already been expunged and have been treated to be good remarks. Notice of motion was issued on 23.03.2018 and in the meanwhile interim order was passed that the services of the

petitioner be not dispensed with. The aforesaid interim order remained in operation till date.

Learned counsel for the petitioner has also brought on record the order dated 17.04.2021 passed by the Superintendent of Police, Yamuna Nagar promoting the petitioner to the post of officiating Sub Inspector w.e.f. 03.05.2018 in the revised pay Rules 2016 in functional pay level 5, against the existing vacancies in that rank in view of principles laid down in PPR 13.1. As of now the petitioner has successfully completed full service and has been retired from service. The Department has already released his retiral dues without their being any encumbrance.

The factual position of the case has not been denied by learned State counsel. Factum of attaining age of superannuation with release of all retiral dues is not in dispute. It is also not in dispute that during pendency of the present petition, the petitioner was brought on promotion List E by the Superintendent of Police, Yamuna Nagar vide order dated 17.04.2021. It is also not in dispute that the adverse remarks for the period 01.04.2015 to 09.03.2016 have already been expunged by the Additional Chief Secretary to Government of Haryana, Home Department vide order dated 25.02.2021. In the light of the aforesaid facts, it would be just and appropriate

to quash the order dated 19.12.2017 vide which the petitioner was proposed to be retired prematurely at the age of 55 years.

Since all the retiral dues have already been released in favour of the petitioner, therefore order dated 19.12.2017 is quashed with all previous proceedings resulting in passing of that order.

This petition is allowed.

13.02.2023

P.Bhatt

**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No