



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

**CWP-17455-2024(O&M)
Date of decision: 05.09.2024**

Kuldeep Singh

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sunil K. Nehra, Advocate with
Mr. Rahil Mahajan, Advocate &
Mr. Viren Nehra, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed, under Article 226 of the
Constitution, *inter alia*, with the following prayer:-

- i. for quashing the impugned adverse remarks recorded in the
ACR of petitioner for the period 01.04.2022 to 31.03.2023,
conveyed vide communication dated 23.05.2023 (P-2);
- ii. for quashing the impugned order dated 17.08.2023 (P-4),
vide which representation of petitioner against adverse
remarks for the above said period, was rejected and;
- iii. for quashing the impugned order dated 12.07.2024 (P-6),
passed by Superintendent of Police, Karnal vide which
petitioner was/is compulsorily retired at the age of 55 years.

(2) In response to notice of motion issued by this Court, reply dated
31.08.2024 by way of affidavit of Shri Mohit Handa, IPS, Superintendent of



Police, Karnal has been filed and the same is taken on record. Registry to tag the reply at appropriate place.

(3) Paper-book reveals that initially, petitioner joined on the post of Constable with Haryana Police on 01.10.1989. In the year 2004, he was promoted as Head Constable and in 2010 as Assistant Sub Inspector. Thereafter, in the year 2018, he was promoted as Sub-Inspector.

(4) In January, 2023, when petitioner was posted as SHO, Police Station Kunjpura, District Karnal, an FIR No. 02 dated 25.01.2023 was registered against him as well as other co-accused, namely, ASI-Rakesh Kumar, ASI-Rajender Singh and DSP-Karnal under Section 120-B IPC and Section 7 of Prevention of Corruption Act, 1988 (for short 'P.C Act'), at Police Station SVB, Karnal and that is still pending.

(5) Learned counsel contends that petitioner has been falsely implicated in the aforesaid FIR and merely on that count, certain adverse remarks were recorded in his ACR for the period 01.04.2022 to 31.03.2023 by Superintendent of Police, Karnal (conveyed on 23.05.2023).

Further contends that against the aforesaid remarks, petitioner made a representation before the Inspector General of Police, Karnal Range, Karnal, but the same was rejected while passing the impugned order dated 17.08.2023 (P-4), without assigning proper reasons.

Again contends that merely on the basis of aforesaid adverse remarks, now petitioner has been ordered to be compulsorily retired on attaining the age of 55 years vide impugned notice/order dated 12.07.2024 (P-6), despite the fact that, he is having unblemished service record of about 35 years.

Lastly contends that action of the respondents is running *de hors*



the provisions of Rule 9.18 (1) (C) of the Punjab Police Rules (as applicable to the State of Haryana); hence the same deserves to be quashed.

(6) *Per contra*, learned State counsel, while raising preliminary objections, submits that petitioner was issued a show-cause notice of 03 months for compulsory retirement, but he has not filed any response till date; rather straightway approached this Court; hence the writ petition is liable to be dismissed, being premature.

He further submits that petitioner is facing criminal case under P.C. Act and as such, his integrity has rightly been reflected as doubtful for the period 2022-23. Again submits that against the adverse entry recorded in the ACR, petitioner made a representation and the same has been rejected by Inspector General of Police after due consideration.

Still further submits that present writ petition is neither an appeal; nor a revision against the adverse remarks recorded in the ACR; hence the writ petition deserves to be dismissed to that extent also.

(7) Heard learned counsel for the parties and perused the paper-book.

(8) There is no dispute that petitioner is an accused in a case under P.C Act and after investigation of the matter, report under Section 173 of Code of Criminal Procedure, 1973 has already been presented, but charges are yet to be considered by learned Special Court.

(9) Superintendent of Police, Karnal, being the competent authority, recorded ACR of the petitioner for the period 01.04.2022 to 31.03.2023 and column Nos.1, 14, 17 & 21 of the same are recapitulated here-as-under:-

<i>Seria l No.</i>	<i>Column</i>	<i>Remarks</i>
<i>1.</i>	<i>Honesty</i>	<i>Dishonest</i>
<i>14.</i>	<i>Reliability</i>	<i>Unreliable</i>
<i>17.</i>	<i>Defect if any and whether the same has been brought to the</i>	<i>He was arrested in P.C. Act, case</i>



	<i>notice of the concerned office with any communication</i>	<i>and one DE initiated.</i>
21.	<i>General remarks</i>	<i>He is corrupt officer</i>

(10) Against the aforesaid remarks, although, a representation was made by the petitioner, but he remained unsuccessful before the Inspector General of Police; except that “average” entries reflected in column Nos.4, 5 & 9, of the said ACR were expunged vide order dated 17.08.2023 (P-4).

(11) Now, through this writ petition, challenge has been made to the adverse remarks reflected in column Nos.1, 14, 17 & 21 (*supra*), but the same deserve no interference for the following reasons viz: -

- i. criminal case under P.C Act is still pending against the petitioner before learned Special Court;
- ii. departmental enquiry already initiated aftermath of above criminal case is also pending; and
- iii. present writ petition is neither an appeal; nor a revision against the impugned order dated 17.08.2023, passed by Inspector General of Police; hence no interference is warranted to that extent.

(12) So far as the challenge to impugned show-cause notice dated 12.07.2024 (P-6) is concerned, the same also does not deserve acceptance being premature and for reference, the Notice is reproduced here-as-under:-

“NOTICE-CUM-ORDER

No.16493/Ord *Dated: 12.07.2024*

You. Si Kuldeep Singh No. 1327/KNL, 234/KR, will attain the age of 55 years on 14.08.2024, your date of birth is 15.08.1969, Whereas, it is proposed to retire you, Sub Inspector Kuldeep Singh No. 1327/KNL, 234/KR, from service compulsorily due to chequered service record in the public interest under Punjab Police Rules 9.18(1)(C), on the following grounds/material:-



<i>Sr. No</i>	<i>Summary of ACR</i>	<i>Remarks</i>
<i>1.</i>	<i>01.04.2022 to 31.03.2023</i>	<i>1. Integrity-Dishonest 2. Reliability-Unreliability</i>

2 *In addition to above adverse remarks recorded in his ACR, he was found involved and arrested in corruption case FIR No. 02 dated 25.01.2023 u/s 7 P.C. Act and 1208 IPC Police Station SVB, Kamal, in connection with demanding illegal gratification of Rs. 80.000/- for cancellation of FIR registered against the complainant.*

3. *In view of the above, your service record during the last ten years has not been found upto the mark, in view of the criteria/parameter laid down in the State Government's instruction dated 05.02.2019. Hence, you are not allowed to serve more in the Police Department, and it has been decided that you should be retire from Govt. service in the public interest under rule 9.18(1)(C) of Punjab Police Rules, 1934. You are, therefore, served upon with this three months notice, as to why you should not be compulsorily retired from service after the expiry of the period of this notice.”*

A bare perusal of the above show-cause notice clearly reveals that petitioner was given 03 months’ time as to why he should not be compulsorily retired from service after expiry of notice period.

(13) Concededly, till date, no response or cause has been shown by the petitioner against the aforesaid notice; rather he has straightway, approached this Court for quashing of the same, under Article 226 of the Constitution.

(14) Since petitioner was/is having sufficient time to respond the show-cause notice; therefore, instead of rushing to this Court, he ought to have submitted his reply, so that the competent authority could take a final decision, in accordance with law, before expiry of 03 months.

(15) In view of the above, there is no option, except to dismiss the writ petition with following order: -

- i. Writ petition challenging adverse remarks for the period 01.04.2022 to 31.03.2023, conveyed vide communication dated 31.05.2023, as well as impugned order dated

17.08.2023, passed by Inspector General of Police, is dismissed being without any substance.

- ii. Writ petition, impugning the show-cause notice/order dated 12.07.2024 for retiring the petitioner from service, is dismissed being premature, at this stage.

(16) Needless to say that petitioner would be at liberty to respond the show-cause notice, if so advised and in case, any adverse decision is taken in the matter, he would be at liberty to take recourse to the remedy available under law.

Pending application(s), if any, shall also stand disposed off.

05.09.2024
Harish Kumar/SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No