



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

229

CWP-6412-2022 (O&M)

Date of Decision: 24.09.2025

KANWAR BHAN

...Petitioner

Vs.

STATE OF HARYANA AND ORS.

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Sumit Sangwan, Advocate for the petitioner

Mr. Ravi Partap Singh, DAG Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. On 29.03.2022, while issuing notice of motion, notice regarding stay was also issued. The order dated 29.03.2022 reads as:-

“Learned counsel for the petitioner contends that the petitioner is working as ESI in the Haryana Police. He is physically challenged and suffers from 80 per cent disability in his left leg. A copy of the certificate in this regard is annexed as Annexure P-3. The respondents have rejected the case of the petitioner for continuation in service beyond 58 years by relying upon instructions dated 29.05.2009 that police officials cannot be retained in service after being declared unfit for service. He further submits that this order is in violation of Rule 143 of the Haryana Civil Services (General) Rules, 2016 wherein it is stated that the age of the superannuation for differently-abled employees having minimum degree of disability of 70% is sixty years.

Issue notice to the respondents.

Notice re:stay as well. At the asking of the Court,

Mr. Anant Kataria, DAG, Haryana accepts notice on behalf of the respondents and prays for time to seek instructions.

List on 30.03.2022.”

2. The petitioner prayed for stay and matter came to be considered at length on 01.04.2022. The Court passed order as below:-

“The petitioner herein was appointed as Constable and came to be promoted to the post of ESI in the year 2018. He is now seeking extension of his service for two years beyond 58 years by relying upon Rule 143 of the Haryana Civil Service (General) Rules 2016 on the ground that during the course of service, he suffered disability to the extent of 80% and, therefore, by virtue of the said Rule, he would be entitled to extension of his service for another period of 02 years. It is also argued that the petitioner is governed by Rule 9.16 of the Punjab Police Rules, as applicable to the State of Haryana. Petitioner seeks interim direction to the respondents not to retire him on completion of 58 years of age, during the pendency of the instant writ petition.

Per contra, learned State counsel would submit that the petitioner is a non-gazetted officer of Haryana Police Force (General Cadre) and, therefore, would be governed by the Punjab Police Rules, 1934, as applicable to the State of Haryana wherein, the age of retirement is 58 years and provisions of Rule 143 of the Haryana Civil Service (General) Rules 2016 are not applicable to his case as the Haryana Civil Service (General) Rules, 2016 would be applicable only to the government employees defined under these rules. “Government Employee” has been defined in Rule 8(36) of the Haryana Civil Services (General) Rules, 2016, which include a member of State Services Group A, B, C or D, whose conditions of service are regulated by rules made by the Governor of Haryana

under the proviso to Article 309 of the Constitution of India and whose appointment is made on regular basis in connection with the affairs of Government of Haryana etc. Even the “State Services” have been defined under Rule 8(78) of the Haryana Civil Services (General) Rules, 2016, which means the civil services under the administrative control of the Haryana Government classified as the State Civil Services, Group A; the State Civil Services, Group B; the State Civil Services, Group C; and the State Civil Services, Group D. Further, Rule 38 of the Haryana Civil Services (General) Rules, 2016 would give classification of services, which are further specified in the schedule (Annexure 3). He seeks time to file a detailed reply.

Adjourned to 06.08.2022.”

3. The petitioner preferred LPA-299-2022 against order dated 01.04.2022 passed by this Court. The said appeal came up for consideration before Division Bench of this Court which vide order dated 26.04.2022 dismissed the same.

4. The petitioner was part of Haryana Police Force. He was a non-gazetted officer. He was governed by Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short ‘PPR’). Rules 9.15 and 9.16 of PPR provide that age of retirement except in exceptional circumstances would be 58 years. Only in very exceptional circumstances and with the approval of Inspector General of Police (now designated as Director General of Police) a non-gazetted officer may be retained beyond 58 years. Rules 9.15 and 9.16 of PPR are reproduced as below:-

“9.15. Superannuation pension.- *A superannuation pension is granted to a Government Servant entitled or required by rule 3.26 of the Punjab Civil Services Rules,*

Volume I, Part I, to retire at a particular age. No claims to compensation from a Government servant who is required to retire at a particular age under rules will be entertained.

9.16. Retention in service of Government servant after age of 58 years.- *Under Rule 3.26 (a) of the Punjab Civil Services Rules Vol. 1, Part I, a non-gazetted Government servant must not be retained in the service after the age of compulsory retirement that is 58 years, except in exceptional circumstances with the sanction of the competent authority on public grounds, which must be recorded in writing.*

Explanation.- *A Government servant can be retained in the service in very exceptional circumstances. The sole justification for allowing retention in exceptional cases shall be the interest of the public service. The question, in fact, is not whether it will benefit an officer to retain him but whether the interests of the department will suffer if the officer is not retained. Only in very exceptional circumstances will the Inspector-General exercise his powers under the rule, which will apply with equal force to all ranks of non-gazetted categories of employees.”*

5. The petitioner is claiming that Rules 9.15 and 9.16 of PPR have borrowed provisions from Punjab Civil Services Rules which are not in force qua State of Haryana, thus, Rules 9.15 and 9.16 are inapplicable.

Contention of the petitioner is wholly misconceived and an attempt to mislead the Court. Rules 9.15 and 9.16 of PPR are still in force and fall within definition of ‘existing law’ as contemplated by Article 366 of Constitution of India. As per judgment of Hon’ble Supreme Court in ***Pankajakshi v. Chandrika*, (2016) 6 SCC 157**, the

‘existing law’ prevails even if there is repugnancy between central Act and ‘existing law’. Article 254 of Constitution of India is inapplicable to ‘existing law’ and Article 372 is applicable.

6. The petitioner sought extension beyond 58 years. Despite notice regarding stay, he was not granted interim protection. He preferred LPA against interim order which was dismissed. He has already attained age of 60 years. Being member of police force, he must have received pension which is 50% of last drawn salary. He has received 50% of his salary without work. If he is declared deemed to be in service for 2 years, it would amount to paying him 100% salary without work. It would be unwanted burden on the public exchequer.

7. In the wake of above factual position, this Court is of the considered opinion that the instant petition deserves to be dismissed and accordingly dismissed

8. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

September 24, 2025
Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No