



**105+231 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision:-22.05.2025

1. CWP-10641-2020

Bhagat Singh

...Petitioner

Vs.

State of Haryana and Others

...Respondents

And

2. CWP-7272-2019

Bhagat Singh

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Dr. S.K. Redhu, Advocate
for the petitioner.

Ms. Palika Monga, DAG, Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. As common issues are involved in the captioned petitioner, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from **CWP-10641-2020**.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 08.05.2020 (Annexure P-12) whereby he was compulsorily retired on attaining the age of 55 years.

3. The petitioner joined Haryana Police Force as Constable on

01.03.1988. He from time to time was promoted. The respondent, by impugned orders dated 06.05.2020 and 08.05.2020, ordered to compulsorily retire him and at that point of time, he was holding rank of SI (ORP). The orders dated 06.05.2020 and 08.05.2020 read as:

“Order dated 06.05.2020

Subject:- Retention in service beyond the age of 55 years case of copy of ORP/SI/ASI Bhagat Singh, No.840/SPT

Memo

Please refer to your office memo No.4898/SPI-dated 29.04.2020 on the subject noted above.

2. The date of birth of ORP/SI/ASI Bhagat Singh, No.840 is 08.05.1965. He is going to complete 55 years of age on 07.05.2020. His honesty for the period from 15.06.2015 to 22.04.2016 is doubtful.

3. As per Govt. Instructions only those Government employees should be allowed to continue in service beyond the age of 55 years who have earned 70% or above good reports and whose integrity is not doubtful during the last 10 years.

4. Hence, he is not allowed to serve beyond the age of 55 years. Please take necessary action accordingly. Ch. Roll of ORP/SI/ASI Bhagat Singh, No.840/SPT received void your memo, under reference also returned herewith being no longer required.

Encls:- As Above.

Sd/-06/05/2020

Addl. Director General of Police,

Rohtak Range, Rohtak

Order dated 08.05.2020

You ORP/SI/ASI Bhagat Singh No.840/SPT of this district has attained the age of 55 years on 07.05.2020 being date of Birth 08.05.1965. The extension beyond the

age of 55 years of ORP/ASI Bhagat Singh No.840/SPT has not been allowed by Worthy Additional Director General of Police, Rohtak Range, Rohtak vide his office memo No.3679/A-3 dated 06.05.2020 that his ACR for the period from 15.06.2015 to 22.04.2016 is doubtful.

You are hereby served with a three months retirement notice as required under rule PPR 9.18 (1) and read with Haryana Civil Service (General Rule-2016) after the expiry of the period of this notice, you will be retired w.e.f. 09.08.2020 A.N from service as per rule mentioned above.

*(Jashandeep Singh Randhawa), IPS
Superintendent of Police,
Sonipat”*

4. Dr. S.K. Redhu, Advocate submits that petitioner was involved in FIR No.104 dated 11.03.2016 registered under Sections 148, 149, 353, 307, 120-B of IPC and Sections 25, 54, 59 of Arms Act, 1959 at Police Station Ganour, District Sonipat. He was found innocent in the inquiry and was fully exonerated. The departmental proceedings were also dropped still he was compulsorily retired on the basis of adverse remarks recorded in the ACR for the period from June’ 2015 to April’ 2016. He filed representation against adverse remarks which was rejected by competent authority. In **CWP-7272-2019**, he is assailing adverse remarks in the ACR.

5. On being asked, learned counsel for the petitioner submits that though a period of three years from the date of passing impugned order has passed away yet petitioner should be deemed to be considered in service for three years because a similarly situated employee was allowed to continue for three years. A Division Bench of this Court in

Shri Ram EASI No.854/FBD Vs. State of Haryana vide judgment dated 06.02.2025 has held that employee would be entitled to consequential benefits including permissible retiral benefits and actual salary for the period during which he was not allowed to perform his duty till he attained actual age of superannuation. This Court should set aside the impugned order as well as adverse remarks recorded in the ACR.

6. *Per contra*, Ms. Palika Monga, DAG, Haryana submits that petitioner was implicated in an FIR. The reporting authority found his integrity doubtful and this fact was recorded in the ACR. He made representations to higher authorities and the same was rejected. The petitioner was not made to compulsorily retire on the basis of adverse remarks whereas his entire service record was considered and thereafter competent authority found him unfit to continue beyond 55 years. The power was exercised in terms of Rule 9.18(1)(c) of Punjab Police Rules, 1934 (for short 'PPR') (as applicable to State of Haryana).

7. I have heard learned counsel for the parties and perused the record.

8. From the perusal of impugned orders, it is evident that respondent has not passed stigmatic order warranting interference. The respondent has considered ACRs of the petitioner. In one ACR, his integrity was recorded as doubtful. He concededly was implicated in FIR under Sections 353, 307 and 120-B IPC though he was fully exonerated in the inquiry.

9. The object of compulsory retirement of a Government servant is to weed out the dead woods in order to maintain efficiency and

initiative in the service as well as to dispense with services of those whose integrity is doubtful so as to preserve purity in the administration.

The Supreme Court in '*State of Gujarat Versus Umedbhai M. Patel*', 2001 (3) SCC 314 has elaborated principles which ought to be followed in the matters relating to compulsory retirement. The relevant extracts of the judgment read as:

“11. The law relating to compulsory retirement has now crystallised into definite principles, which could be broadly summarised thus:

(i) Whenever the services of a public servant are no longer useful to the general administration, the officer can be compulsorily retired for the sake of public interest.

(ii) Ordinarily, the order of compulsory retirement is not to be treated as a punishment coming under Article 311 of the Constitution.

(iii) For better administration, it is necessary to chop off dead wood, but the order of compulsory retirement can be passed after having due regard to the entire service record of the officer.

(iv) Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.

(v) Even uncommunicated entries in the confidential record can also be taken into consideration.

(vi) The order of compulsory retirement shall not be passed as a short cut to avoid departmental enquiry when such course is more desirable.

(vii) If the officer was given a promotion despite adverse entries made in the confidential record, that is a fact in favour of the officer.

(viii) Compulsory retirement shall not be imposed as a punitive measure.”

10. Non retention beyond 55 years is not punitive. It is discretion of appointing authority to retain or retire an employee upon attaining age of 55 years. The impugned order is not stigmatic. The respondent has duly considered past service record of the petitioner and thereafter formed an opinion that he should be compulsorily retired. There seems no procedural or legal infirmity in the impugned order warranting interference.

11. There is another facet of the matter. The impugned order was passed on 08.05.2020 and a period of five years has passed away. The petitioner was made to retire on attaining age of 55 years. He at the most could work till the age of 58 years. He on his retirement was entitled to 50% of his last drawn salary as pension. The petitioner during claimed three years service had not worked, however, he has received 50% of his last drawn salary as pension. At this stage, it would not be appropriate to notionally reinstate him. It is not a case of 100% clean antecedents or *mala fide* on the part of respondent-authorities. The matter was considered at the level of ADGP and thereafter order was passed jurisdictional Superintendent of Police who was competent authority to pass order of premature retirement in terms of Rule 9.18(1)(c) of PPR.

12. In **CWP-7272-2019**, the petitioner is seeking setting aside of adverse remarks recorded in his ACR.

13. The competent authority as per its wisdom and available record, recorded adverse remarks in the ACR. The petitioner was having opportunity to make representation which he availed. The competent authority considered his representation and did not find substance. The

representation was rejected.

14. Scope of interference in ACR matters is very limited. An authority is best judge of subordinate's strength and weaknesses. In the absence of material irregularity, the Court cannot substitute opinion of the authorities.

15. In the wake of above discussion and findings, this Court is of the considered opinion that the present petitions being bereft of merit deserve to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

22.05.2025
Prince Chawla

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