IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

698 **CWP-10222-2010**
Date of Decision: 27.08.2025

RAM CHANDER INDORA ...Petitioner

Vs.

STATE OF HARYANA AND ANR. …Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. B.S. Mittal, Advocate
for the petitioner

Mr. Suneel Ranga, DAG Haryana

***

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking setting aside of order dated 16.03.2007 whereby he was compulsorily retired.

2. From the perusal of order dated 16.03.2007 it is evident that petitioner was compulsorily retired on account of his conviction under Section 324, 348, 365, 457, 506, 467, 468, 471, 120B IPC.

3. Learned counsel for the petitioner submits that petitioner was acquitted by Appellate Court in respect of few offences and with respect to remaining he was released on probation. He was entitled to benefit of Section 12 of the Probation of Offenders Act, 1958

4. On being asked, learned counsel for the petitioner confirmed that petitioner was 55 years old at the time of passing of the impugned order.

5. The respondent by impugned notice/order has retired the petitioner on attaining the age of 55 years. The said order has been

DEEPAK BISSYAN
2025.08.28 13:03
I attest to the accuracy and
integrity of this document

passed in exercise of power conferred by Clause (b) of 2nd Proviso to Article 311(2) of the Constitution of India. The impugned order was passed in March' 2007. Had the impugned order not been passed, the petitioner would have worked for three more years. He was part of Haryana Police Force and his service was pensionable, thus, he must have received pension which is 50% of last drawn salary. He had not worked during said period.

6. 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*

DEEPAK BISSYAN
2025.08.28 13:03
I attest to the accuracy and
integrity of this document

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."

7. The petitioner contends that he is entitled to benefit of Section 12 of the Probation of Offenders Act, 1958, thus, could not be made to retire. The Hon'ble Supreme Court in ***"Union of India Vs. Tusli Ram Patel",* (1985) 3 SCC 398**, has adverted to a similar situation wherein a Government servant was convicted for causing head injury to his superior but was released on probation by the Magistrate. The authorities in light of his conviction retired the errant official under Clause (b) of 2nd Proviso to Article 311(2) of the Constitution of India. The Supreme Court affirming the said order held that retention of official in public service is not desirable despite being released on probation. The relevant extracts of ***Tulsi Ram Patel (supra)*** are reproduced as below:-

"153. The second ground upon which the High Court rested its decision is equally unsustainable. The circumstances which were taken into consideration by the disciplinary authority have been sufficiently set out in the order of compulsory retirement, they being that the respondent's conviction under Section 332 of the Penal Code, 1860 and the nature of the offence committed which led the disciplinary authority to the

DEEPAK BISSYAN
2025.08.28 13:03
I attest to the accuracy and
integrity of this document

conclusion that the further retention of the respondent in the public service was undesirable. The mention of Section 332 of the Penal Code, 1860 in the said order itself shows that respondent was himself a public servant and had voluntarily caused hurt to another public servant in the discharge of his duty as such public servant or in consequence of an act done by that person in the lawful discharge of his duty. The facts here are eloquent and speak for themselves. The respondent had gone to the office of his superior officer and had hit him on the head with an iron rod. It was fortunate that the skull of Raj Kumar was not fractured otherwise the offence committed would have been the more serious one under Section 333. The respondent was lucky in being dealt with leniently by the Magistrate but these facts clearly show that his retention in public service was undesirable. In fact, the conduct of the respondent was such that he merited the penalty of dismissal from government service and it is clear that by imposing upon him only the penalty of compulsory retirement, the disciplinary authority had in his mind the fact that the Magistrate had released him on probation. We accordingly hold that clause (i) of Rule 19 of the Civil Services Rules was rightly applied to the case of the respondent."

8. In the wake of above discussion, findings and judgments of Supreme Court, the instant petition being bereft of merit deserves to be dismissed and accordingly dismissed.

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

(JAGMOHAN BANSAL)
JUDGE

27.08.2025
Deepak DPA

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

DEEPAK BISSYAN
2025.08.28 13:03
I attest to the accuracy and
integrity of this document