



CWP-14356-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-14356-2020

Date of Decision: 24.02.2025

Jatinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. D.S. Patwalia, Senior Advocate with
Ms. Rishu Bajaj, Advocate for the petitioner
Mr. Aman Dhir, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 04.12.2019 (Annexure P-1) whereby he has been compulsorily retired.

2. The petitioner joined Punjab Police as Constable. In 2019, he was holding the rank of Assistant Sub-Inspector. The respondent by impugned order dated 04.12.2019 ordered to compulsorily retire him with immediate effect.

3. Mr. D.S. Patwalia, learned Senior counsel submits that impugned order is stigmatic, thus, could not be passed in terms of the Punjab Civil Services (Premature Retirement) Rules, 1975. The respondent ordered to prematurely retire the petitioner without giving three months' notice.

4. In *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 at Page 281, a Constitution Bench elaborated and expounded the relationship



that every action of the State is violative of Article 14 which is arbitrary. Equality is antithetic to arbitrariness. Equality and arbitrariness are sworn enemies. One belongs to the rule of law in a republic, while the other, to the whim and caprices of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14. Justice Bhagwati speaking for the bench has held:

“7. Now, the question immediately arises as to what is the requirement of Article 14: what is the content and reach of the great equalizing principle enunciated in this article? There can be no doubt that it is a founding faith of the Constitution. It is indeed the pillar on which rests securely the foundation of our democratic republic. And, therefore, it must not be subjected to a narrow, pedantic or lexicographic approach. No attempt should be made to truncate its all embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be imprisoned within traditional and doctrinaire limits. We must reiterate here what was pointed out by the majority in E.P. Royappa v. State of Tamil Nadu (1974) 4 SCC 3 namely, that “from a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic, while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14.” Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence and the procedure contemplated by Article 21 must answer the test of reasonableness in order to be in conformity with Article 14. It must be “right and just



and fair” and not arbitrary, fanciful or oppressive; otherwise, it would be no procedure at all and the requirement of Article 21 would not be satisfied.”

5. The object of compulsorily 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 v. 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.”*

[Emphasis Supplied]

6. Supreme Court in catena of judgments including ***R.K. Panjetha v. Haryana Vidyut Prasaran Nigam Ltd., (2002) 10 SCC 590*** has laid down that if order of compulsorily retirement casts stigma on the Government servant means it contains statement casting aspersion on the conduct or character, the Court will treat the said order as an order of punishment attracting provisions of Article 311 (2) of the Constitution. Simple order of compulsory retirement cannot be regarded as an order of punishment. If the statement in the order refers only to the assessment of his work and does not at the same time cast aspersion on the conduct or character of the employee, it would not be proper to hold that order of compulsory retirement an order of punishment. The authorities passing order of premature retirement are not supposed to pass a speaking order. Pre-mature retirement is prerogative of Government but it should be based on material and has to be based on the subjective satisfaction of the Government.

7. In view of aforesaid judgments of Supreme Court, the order of compulsory retirement cannot be stigmatic. In case it is stigmatic, it becomes punitive and authorities are bound to comply with mandate of Article 311(2) of the Constitution of India.



For the ready reference, the impugned order dated 04.12.2019 is reproduced as below: -

“ORDER

As per instructions vide letter No. 5/7/2012-2PP2/1119 dated 28.08.2012 of Government of Punjab that the government is bound to provide honest and speedy administration. Therefore, after considering the matter from all angles to provide unblemished, honest and speedy administration, it has been decided to examine the State Government/ Employees' case should be referred to the State Government as per Rule 3 (1) (a) of the Pre Mature Retirement Rules 1973, and after completion of 15, 20, 29, 30, 33 years of qualified service of Class-C and Class-D employees, in order to keep the service running smoothly and forward, the record should be reviewed in accordance with the instructions given in the following instructions: 6520-2S11-75/38581 dated 26th September, 1975. This should be discussed time and again.

It has come to notice that ASI Jatinder Singh No. 3680/Amritsar is posted at Police Station Ranjit Avenue, Amritsar from 28.07.2017. He had 130 cases which are under investigation and the investigation of these cases is pending without and (sic) reason, due to which the challan of these cases were not put before the Hon'ble court. This employee has been instructed by the SHO of Ranjit Avenue and by the senior officer to complete the investigation in the crime meetings held from time to time. Despite this, the employee has not yet completed the investigation of these cases and by not concluding the investigation in the matters with heinous crimes, given advantage to accused persons who have grossly violated the discipline of the police department which is highly reprehensible and divisive.

A departmental committee of three police officers was constituted by this office, to submit a brief report on the matter. After conducting the inquiry by departmental committee, it was found that ASI Jatinder Singh No. 3680/Amritsar, above said, has kept pending the investigation of a large number of cases without any reason and has given



advantage to the accused persons and proved his irresponsibility. Due to the negligence committed on the part of this employee itself proved his corruptness; in this way the said employee has defamed the image of the police department which is highly reprehensible and divisive. This employee was appointed on 07.08.1989 and at present his service is of more than 30 years and 3 months. It is not in the public interest to keep this employee in service. So, the Punjab Government is bound to provide honest and speedy administration and keeping in view the instructions issued time to time, so it is recommended that ASI Jatinder Singh No. 3680/Amritsar, Police Station Ranjit Avenue, Amritsar be prematurely retired immediately.

I Dr. Sukchan Singh Gill, IPS Commissioner of Police, agreed with the report submitted by Departmental Committee, it is not in the public interest to keep this employee in service. So, that keeping in view the Instructions issued by the Government of Punjab form (sic) time to time, Punjab Civil Services (Pre Mature Retirement) Rules, 1975, ASI Jatinder Singh No.3680/Amritsar, Police Station Ranjit Avenue, Amritsar is ordered to compulsorily retired from today's afternoon i.e. 04.12.2019. He be paid all the allowances and three month salary immediately.

Order is recorded.

*Sd/- Dr. Sukhchain Singh Gill, IPS
Commissioner of Police
Amritsar City”*

8. On being confronted with impugned order and judgments of Supreme Court, learned State counsel, expressed his inability to controvert the fact that impugned order is stigmatic, however, submits that respondent may be granted liberty to pass fresh order in accordance with law.

9. As the impugned order is stigmatic, could not be passed without complying with mandate of Article 311(2) of the Constitution of India.

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10. In the backdrop, the petition is allowed and impugned order dated 04.12.2019 (Annexure P-1) is hereby set aside. The petitioner is ordered to be reinstated. He would not be entitled to differential amount of salary for the period he remained superannuated. The respondent is at liberty to proceed against petitioner in accordance with law.

(JAGMOHAN BANSAL)
JUDGE

24.02.2025*Mohit Kumar*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No