



CWP-15804-2025

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

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CWP-15804-2025

Date of Decision: 11.07.2025

Suresh Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Akshit Pathania, Advocate and
Mr. Samay Sandhawalia, Advocate for the petitioner
Mr. Raman Sharma, Additional Advocate General, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 22.04.2025 (Annexure P-1) whereby he has been ordered to prematurely retire w.e.f. 09.08.2025.

2. The petitioner joined Haryana Police Force as Constable on 11.07.2012. He is an Ex-Serviceman. An FIR No.193 dated 29.08.2023 under Section 384 of Indian Penal Code, 1860 and Section 7 of Prevention of Corruption Act, 1988 at Police Station Civil Lines, Gurugram was registered against him. He was arrested on 30.08.2023. The Disciplinary Authority after conducting inquiry dismissed him from service vide order dated 06.08.2024 (Annexure P-2). He preferred an appeal before the Appellate Authority which reduced his quantum of punishment. The order of dismissal from service was substituted by forfeiture of four increments with



permanent effect. The said order has become absolute because no revision has been filed against the same. The respondent by impugned order dated 22.04.2025 has ordered to prematurely retire him w.e.f. 09.08.2025.

3. Mr. Akshit Pathania, learned counsel for the petitioner submits that impugned order has been passed without concurrence of the State Government, thus, order is bad in the eye of law. As per Rule 9.18(1)(c) of Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short 'PPR'), the Disciplinary Authority was supposed to seek prior approval of the State Government. The petitioner has been prematurely retired only on account of pending trial and punishment of forfeiture of four increments. It amounts to double punishment. The order has become stigmatic. From the reply of the State Government, it is evident that original cause of premature retirement was aforesaid FIR and departmental proceedings. The petitioner has been dismissed by same authority who passed the order of dismissal from service.

During the course of hearing, on the asking of Court, Mr. Raman Sharma, Additional Advocate General, Haryana produced original file disclosing its movement and observations of the Authorities with respect to impugned action.

4. I have gone through the original file produced by learned State counsel. After careful perusal, the same is returned to learned State counsel.

5. The petitioner is claiming that impugned order could not be passed by the Appointing Authority without concurrence of the State Government. This Court vide judgment dated 13.02.2025 passed in a bunch



of petitions including ***CWP No.2766 of 2025, Naresh Kumar v. State of Haryana and others***, after advertng to judicial precedents, has already held that Appointing Authority is competent to pass order under Rule 9.18(1)(c) of PPR and there is no need of concurrence of the State Government, thus, argument of the petitioner is not sustainable.

6. The petitioner is further claiming that impugned order is stigmatic. From the perusal of impugned order, it is evident that competent authority has not jotted down any observation which could be called as stigmatic. For the ready reference, said order/notice is reproduced as below:-

“NOTICE FOR RETIREMENT

You, Const. Suresh Kumar No.2438/GGM of this Commissionerate will attain the age of 55 years as on 09.08.2025 being his date of birth 10.08.1970. Your service record for extension in service to serve beyond the age of 55 years has been examined and considered in light of rules/latest Govt. instructions. After consideration of your case, you are found not eligible to serve in department beyond the age of 55 years.

Keeping in view of above, your services are not required by the department beyond the age of 55 years in public interest in pursuance of the provisions contained in rules 9.18(1)(c) of the Punjab Police Rule as applicable to the State of Haryana. The undersigned serve upon you a notice, that you Const. Suresh Kumar No.2438/GGM shall stand retired from service w.e.f. 09.08.2025 A.N. under the State Government of Haryana at the age of 55 years.

*Sd/-
(Dr. Arpit Jain, IPS)
Deputy Commissioner of Police,
Hqrs., Gurugram ”*

7. The power to pass order of premature retirement is an absolute discretion of the competent authority. The said power cannot be exercised in a whimsical and arbitrary manner. There should be application of mind. This



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Court has gone through original file produced during the course of hearing and come across that there was application of mind. The credentials of the petitioner were duly considered and thereafter it was decided that he should not be allowed to continue. As per instructions issued by the State Government, if integrity of an officer is doubtful, he is bound to be prematurely retired on attaining the age of 55 years. The petitioner was a Constable, thus, his Annual Confidential Report was not recorded. He was awarded punishment of forfeiture of four increments on account of acceptance of bribe of ₹1,000/- from a car driver. This was sufficient to hold that his integrity was doubtful.

8. 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.

9. 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.



- (ii) *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.*
- (iii) *Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.*
- (iv) *Even uncommunicated entries in the confidential record can also be taken into consideration.*
- (v) *The order of compulsory retirement shall not be passed as a short cut to avoid departmental enquiry when such course is more desirable.*
- (vi) *If the officer was given a promotion despite adverse entries made in the confidential record, that is a fact in favour of the officer.*
- (vii) *Compulsory retirement shall not be imposed as a punitive measure.”*

10. In the case in hand, the impugned order has been passed by competent authority and the said order cannot be set aside on the ground that on the earlier occasion, the said authority has ordered to dismiss him from service. Power vests in the Superintendent of Police and he has exercised it in accordance with law.

11. In the wake of above discussion and findings, this Court is of the considered opinion that present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

11.07.2025
Mohit Kumar

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