



CWP-4319-2016

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

**CWP-4319-2016 (O&M)
Date of Decision:01.04.2025**

SATYANARIAN

..... Petitioner

Versus

STATE OF HARYANA & ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Manu K. Bhandari, Advocate with
Mr. Rohit Kataria, Advocate,
Mr. Manu Gaur, Advocate and
Mr. Arjun Sawhni, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. AG, 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 02.09.2015 (Annexure P-8) whereby he was compulsorily retired on attaining the age of 55 years.

2. The petitioner joined Haryana Police on 09.08.1985 as Constable. He from time to time was promoted to higher ranks. The respondent issued him a charge sheet which was followed by enquiry report. The Enquiry Officer found him guilty with respect to alleged misconduct. The Disciplinary Authority vide order dated 26.02.2013 awarded punishment of stoppage of one increment with temporary affect. He preferred an appeal before Appellate Authority which substituted punishment of forfeiture of one increment by warning. The respondent



recorded average grade in the ACR of petitioner for the period from 19.09.2012 to 07.03.2013. He unsuccessfully represented against adverse entry in ACR. The respondent by impugned order has ordered to compulsorily retire him on attaining the age of 55 years. The impugned order was passed in terms of Rule 9.18 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short, 'PPR').

3. On 24.03.2025, on the asking of Court, the respondent produced original file wherein case of petitioner was considered before passing impugned order. From the perusal of record, the Court found that reasons were not recorded by Competent Authority before passing impugned order.

4. Mr. Manu K. Bhandari, Advocate for the petitioner submits that impugned order was passed mechanically. The DGP vide instructions dated 14.03.2006 has clarified that an employee should be allowed to continue in service beyond the age of 55 years if he has earned 70% or above good reports and whose integrity is not doubted during the last 10 years. The petitioner's integrity was never doubted in last 10 years and his all ACRs were good except one in last 10 years.

5. Mr. Raman Sharma, Addl. AG, Haryana submits that petitioner was awarded punishment of warning by Appellate Authority and in one ACR his integrity was found average, thus, Competent Authority rightly prematurely retired him. The power was exercised in terms of Rule 9.18 (1)(c) of PPR and there is no abuse or misuse of process of law.

6. I have heard the arguments of learned counsel for the parties and perused the record with their able assistance.



7. From the perusal of record, it is evident that during 10 years preceding the date of impugned order, the petitioner was subjected to one punishment i.e. warning. He was not subjected to any other punishment. His more than 70% ACRs were found good and only one ACR was found average and the reason of average of that ACR was punishment awarded by Disciplinary Authority means the reason & period of awarding of punishment and lower grade in ACR was overlapping. The punishment of stoppage of one increment was substituted by warning which means the Appellate Authority found that conduct of petitioner was not so bad which warranted punishment in the form of forfeiture of increment. As per instructions issued by DGP, the respondent was bound to consider 10 ACRs preceding date of impugned order. The instruction dated 13.03.2006 are reproduced as below:

“From

*The Director General of Police,
Haryana.*

To,

All Heads of Police Offices in Haryana.

No. 1638-89/E (111) -11 dated Pkl. 14.03.2006

Subject: Extension in service beyond the age of 55 years.

Memorandum:

Reference Govt. instructions issued vide No. 4776-3GS (1)/15823 dated 19/21.5.64, 32/65/82-4 GSI dated 27.12.82, 32/15-A/87-4 GSI dated 06.07.87, 32/194/89-GSI dated 22.03.90 and 32/01/2005-4GSI dated 11.04.2005 on the above subject.

It has been noticed that the above instructions are not being followed strictly.



As per above Govt. instructions issued from time to time, cases of extension in service beyond the age of 55 years should be taken up 6 months before a Govt. employee attains the age of 55 years. His record should be carefully examined by the appointing authority and a provisional judgment should be formed after ascertaining as to whether he should be retired on attaining the age of 55 years. This decision should be made well in advance so that in the event of retirement being finally decided upon, a notice could be given to the govt, employee concerned, atleast 3 months before the date on which he is to attain the age of 55 years and his retirement given effect to at that age. Further, only those Govt. 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 doubted during the last 10 years. However, cases of those, who on the basis of their service record are fit to be retained in service beyond the age of 55 years but has integrity is reported to be doubtful are to be decided by the Head of the Department in view of Govt, instruction No. 32/01/2005-4 GS1 dated 11.04.05.

Further while deciding such cases, service record of the official/punishment awarded to him should be properly scrutinized. An official who has been awarded punishments on the basis of charges which reflect on the integrity of employee should not be permitted to service beyond the age of 55 years. Minor punishments like warning/censure should be avoided. Cases in which charge sheets have been issued under rule 7 court cases are pending, where the charges are such which caste aspersions on the integrity of the employee should be referred to this office for decision.

3. It is, therefore, reiterated that instructions issued by the Govt. should be complied with meticulously. Any laxity/delay of cases shall be viewed seriously.



Sd/-13.03.2006
Director General of Police
Haryana”

8. The respondent has not considered case of petitioner under Rule 9.18 (1)(c) of PPR in true spirit. The respondent has further not passed impugned order as per instructions dated 14.03.2006 of DGP, thus, impugned order deserves to be set aside and accordingly set aside.

9. The petitioner was made to retire on attaining the age of 55 years and had impugned order not been passed, he would have worked till the age of 58 years. It was a pensionable job, thus, he has received pension which must be 50% of normal salary. The petitioner has not worked during the said period, thus, this Court does not find it appropriate to extend full salary for the aforesaid period, however, he is entitled to revision of pension on notional basis considering him in service till the age of 58 years. He would be entitled to arrears arising on account of revision of pension. It is made clear that arrears will not carry interest, if payment is not made within 3 months from today. On the expiry of said period, the respondent shall be liable to pay interest @ 9% per annum.

10. Disposed of in above terms.

11. Pending misc. application (s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

01.04.2025
Ali

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No