



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

CWP No.24726-2024 (O&M)

Date of Decision:09.09.2025

Kuldeep Singh

....Petitioner

vs.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sunil Kumar Nehra, Advocate
Mr. Rahil Mahajan, Advocate
Mr. Viren Nehra, Advocate
Mr. Arjun Dosanj, Advocate
Mr. Anuj Chauhan, Advocate
Ms. Meghna Nehra, Advocate
for the petitioner

Mr. Ashok Kumar Khubbar, Addl. A.G., Haryana

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 21.09.2024 (Annexure P-8) whereby he is ordered to retire at the age of 55 years.

2. The petitioner joined Haryana Police Force as Constable on 01.10.1989. He from time to time was promoted to higher ranks. At present, he is holding rank of Sub Inspector. He was implicated in FIR No. 02 dated 25.01.2023, under Section 7 of the Prevention of Corruption Act, 1988 and 120B of IPC, registered at Police Station State Vigilance Bureau, Karnal. On the basis of said FIR, adverse entry was recorded in his ACR for the period from April' 2022 to March' 2023. He made representation against adverse remarks which was partially accepted. He preferred writ petition



before this Court which was dismissed. He preferred writ petition before this Court assailing departmental proceedings which were initiated pursuant to aforesaid FIR. The said writ petition stands dismissed vide order dated 12.05.2025. The Investigating Officer has completed investigation and filed Police Report under Section 173 Cr.P.C. before Trial Court. Charges are yet to be framed. The petitioner has been made to retire by impugned order, on attaining the age of 55 years.

3. Mr. Ashok Kumar Khubbar, Addl. A.G., Haryana during the course of hearing produced original file relating to retirement of the petitioner.

4. Perused the file and returned the same to learned State counsel.

5. Mr. Sunil K. Nehra, Advocate submits that Superintendent of Police is competent authority of Sub Inspector to exercise power of retirement under Rule 9.18(1)(c) of Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short 'PPR'). This Court vide judgment dated 13.02.2025 passed in a bunch of petitions including ***CWP No. 2766 of 2025*** titled as "***Naresh Kumar vs. State of Haryana and others***" has rejected contention of Sub Inspectors that order of retirement cannot be passed by Superintendent of Police. In the case of petitioner, Superintendent of Police recommended the matter for further extension. Inspector General of Police considered case of petitioner and ordered for retirement. On the basis of directions of Inspector General of Police, the jurisdictional Superintendent of Police passed the impugned order. The said order is contrary to judgment of Hon'ble Supreme Court in ***Joint Action Committee of Air Line Pilots Association of India (Alpai) and others vs. Director General of Civil***



Aviation and others, 2011(5) SCC 435. The said judgment has been followed by Division Bench of this Court in “*Kanta Devi vs. The Punjab Nurses Registration Council and others*”, 2013 SCC OnLine P&H 560.

6. Per contra, Mr. Ashok Kumar Khubbar, Addl. A.G., Haryana submits that Superintendent of Police referred the matter to Inspector General of Police who did not approve extension beyond 55 years. The matter was referred to Inspector General of Police, thus, he was competent authority to consider case of petitioner for extension.

7. On being confronted with judgment in *Naresh Kumar (Supra)*, he expressed his inability to controvert that State in the said petition has vehemently pleaded that Superintendent of Police is competent authority to pass order of retirement qua Sub Inspector under Rule 9.18 (1)(c) of PPR.

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

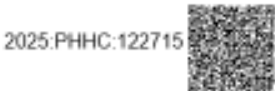
9. From the perusal of record, it is evident that Superintendent of Police has passed the impugned order on the recommendations of Inspector General of Police. He himself was of the opinion that extension beyond 55 years may be considered. He found that petitioner has earned 63 commendation certificates and his overall record is satisfactory except aforesaid case. Hon’ble Supreme Court in *Joint Action Committee of Air Line Pilots Association of India (Alpai) (Supra)* has clearly held that power vested in a particular authority cannot be exercised even by superior authority. No person, even superior authority, can interfere with the functioning of a Statutory Authority. The Authority who has been vested with the power to exercise its discretion alone can pass the order. Even



senior official cannot provide for any guideline or direction to the authority under the statute to act in a particular manner. The relevant extracts of the judgment read as:-

*“26. The contention was raised before the High Court that the Circular dated 29.5.2008 has been issued by the authority having no competence, thus cannot be enforced. It is a settled legal proposition that the authority which has been conferred with the competence under the statute alone can pass the order. No other person, even a superior authority, can interfere with the functioning of the Statutory Authority. In a democratic set up like ours, persons occupying key positions are not supposed to mortgage their discretion, volition and decision making authority and be prepared to give way to carry out commands having no sanctity in law. Thus, if any decision is taken by a statutory authority at the behest or on suggestion of a person who has no statutory role to play, the same would be patently illegal. (Vide: **Purtabpur Co., Ltd. v. Cane Commissioner of Bihar & Ors.**, AIR 1970 SC 1896; **Chandrika Kha v. State of Bihar & Ors.**, AIR 1984 SC 322; **Tarlochan Dev Sharma v. State of Punjab & Ors.**, AIR 2001 SC 2524; and **Manohar Lal (D) by L.Rs. v. Ugrasen (D) by L.Rs. & Ors.**, AIR 2010 SC 2210.)*

*27. Similar view has been re-iterated by this Court in **Commissioner of Police, Bombay v. Gordhandas Bhanji**, AIR 1952 SC 16; **Bahadursinh Lakhubhai Gohil vs. Jagdishbhai M. Kamalia & Ors.**, AIR 2004 SC 1159; and **Pancham Chand & Ors. v. State of Himachal Pradesh & Ors.**, AIR 2008 SC 1888, observing that an authority vested with the power to act under the statute alone should exercise its discretion following the*



procedure prescribed therein and interference on the part of any authority upon whom the statute does not confer any jurisdiction, is wholly unwarranted in law. It violates the Constitutional scheme.

28. In view of the above, the legal position emerges that the authority who has been vested with the power to exercise its discretion alone can pass the order. Even senior official cannot provide for any guideline or direction to the authority under the statute to act in a particular manner.”

10. In the case in hand, Superintendent of Police, as held by this Court in ***Naresh Kumar (Supra)***, is competent and statutory authority to pass order under Rule 9.18(1)(c) of PPR. He cannot be directed by any other authority including senior officers to pass order in a particular manner. Discretion has to be exercised by Superintendent of Police. The opinion of jurisdictional Superintendent of Police was different from opinion of Inspector General of Police. He has passed impugned order solely as per directions of Inspector General of Police.

11. In the wake of law laid down by Hon’ble Supreme Court in ***Joint Action Committee of Air Line Pilots Association of India (Alpai) (supra)*** and above discussion & findings, the instant petition is allowed and impugned order is hereby set aside.

12. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

09.09.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	