



CWP-25270-2016 (O&M)

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

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CWP-25270-2016 (O&M)

Date of Decision: 11.02.2026

Sub-Inspector Ranbir Singh through legal representatives ...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Sandeep Dhull, Advocate for the petitioner

Mr. Ravi Partap Singh, Deputy Advocate General, Haryana
(assisted by HC Parveen Kumar,
O/o Superintendent of Police, Panipat)

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order and notice dated 30.09.2016 whereby he has been retired upon attaining the age of 56 years. He is further seeking setting aside of adverse remarks recorded in his Annual Confidential Report ('ACR') for the period from 01.04.2014 to 22.11.2014 as well order whereby he was awarded punishment of forfeiture of two increments with permanent effect.

2. The petitioner belonged to Haryana Police Force and was holding rank of Sub-Inspector. In 2014, while he was holding rank of Sub-Inspector, an FIR dated 04.02.2014 under Sections 7/13 of the Prevention of Corruption Act, 1988 and Section 384 of Indian Penal Code, 1860 came to be registered against him at Police Station Chandni Bagh, Panipat. He was suspended on 04.02.2014 and reinstated on 30.09.2015. He was subjected to

departmental inquiry wherein was found guilty of alleged charges. The



Superintendent of Police, Panipat vide order dated 31.12.2015 awarded him punishment of dismissal from service. He faced trial and came to be acquitted vide judgment dated 10.05.2016 passed by learned Special Judge, Panipat. He filed appeal against the order of dismissal from service before the Appellate Authority which converted the punishment of dismissal to forfeiture of 7 increments with permanent effect. He thereafter preferred revision before the Director General of Police ('DGP'), Haryana who reduced the punishment to forfeiture of 2 increments with permanent effect. The competent authority recorded his ACR for the period from 22.11.2014 to 31.03.2015. The Reporting Authority assessed him dishonest and unreliable officer. The remarks of the Reporting Officer were communicated to him on 26.10.2015. He preferred representation against adverse remarks before Higher Authority. His representation came to be dismissed vide communication dated 16.08.2016. The representation was dismissed after considering comments of the Reporting Authority. He attained age of 55 years on 19.04.2015. The respondent in exercise of power conferred by Rule 9.18(1)(c) of Punjab Police Rules, 1934, as applicable to State of Haryana (for short 'PPR'), ordered to retire him w.e.f. 31.12.2016.

3. On 07.12.2016, this Court while issuing notice of motion passed the following order:

"The prayer is for quashing of the adverse remarks regarding integrity in the ACR for the period 01.04.2014 till 20.11.2014 conveyed vide Memo dated 26.10.2015 (P-1) as also the order dated 16.08.2016 P-5 whereby representation against P-1 has been rejected without application of mind; further challenge is to the punishment order dated 14.09.2016 (P-11) whereby the Revisional Authority has reduced/awarded punishment of stoppage of two increments with cumulative effect while reversing the dismissal order



passed by the Disciplinary Authority; lastly challenge is to the order dated 30.09.2016 (P-13) whereby the petitioner has been prematurely retired made effective w.e.f. 31.12.2016.

It is submitted that petitioner was promoted as Sub Inspector in December 2013 on the criteria of selection. For the alleged instance of accepting bribe of Rs.40,000/- on 08.12.2013 an FIR was lodged on 04.02.2014 and also departmental proceedings initiated. In the criminal proceedings, the petitioner stands acquitted vide judgment dated 10.05.2016 (Annexure P-3), which has attained finality. The Departmental proceedings culminated into passing of order dated 31.12.2015 (P-7), dismissal from service which in appeal stands set aside and substituted by the aforesaid punishment of stoppage of two increments with cumulative effect. The petitioner remained on suspension from duty w.e.f. 4.2.2014 till 24.09.2015 for the aforesaid alleged misconduct.

In the aforesaid backdrop of facts, it is inter alia contended that in view of the instructions dated 02.03.1971 (P-14). The ACRs for the period 1.4.2014 to 24.09.2014 could not be recorded as the petitioner was under suspension. Thus, no reliance can be made on the said ACR for prematurely retiring the petitioner. Apart from the same, even the result of punishment of stoppage of two increments with cumulative effect vide order dated 14.09.2016 (P-11) is not sufficient to make out a case for prematurely retiring the petitioner, as otherwise service record of the petitioner is blemishless. Anything remotely adverse would lose its sting by the order of promotion based on selection in December 2013. Still further the order of punishment dated 14.09.2016 (P-11) cannot relate back to the stage of consideration of retention in service of the petitioner at the age of 55 years on 19.04.2015. It is thus contended that the order of prematurely retiring the petitioner is liable to be set aside.

Notice of motion 19.12.2016.

Dasti as well.



On the asking of the Court, Mr. Ripudaman Bansal, AAG Haryana accepts notice on behalf of official respondents.

Learned Counsel for the petitioner undertakes to furnish adequate number of copies of writ petition to the learned State Counsel during the course of day.”

4. Learned counsel for the petitioner submits that impugned notice as well as order of compulsory retirement was stigmatic. The respondent could not pass stigmatic order under Rule 9.18(1)(c) of PPR. The Inquiry Officer did not appreciate evidence in true spirit and held him guilty. He was finally awarded punishment of forfeiture of 2 increments with permanent effect. There was no evidence against him still was subjected to aforesaid punishment. The higher authorities have passed impugned orders without application of mind. Inquiry was initiated only on the basis of FIR lodged against him. He vide judgment dated 10.05.2016 has been acquitted by learned Special Judge, Panipat in the aforesaid FIR. The respondents wrongly recorded adverse remarks in his ACR. Foundation of adverse remarks was a criminal case and the petitioner stands acquitted in the said case, thus, adverse remarks need to be expunged.

5. *Per contra*, learned State counsel submits that Inquiry Officer served copy of relevant documents of departmental inquiry upon the petitioner and he was afforded reasonable time to lead his defence. Inquiry Officer after considering relevant documents held him guilty and framed charges against him. After perusing findings of Inquiry Officer, Disciplinary Authority issued him show cause notice proposing penalty of dismissal from service, however, he was finally awarded punishment of forfeiture of 2 increments with permanent effect. The petitioner has already been paid all



retiral dues. He got pension besides leave encashment, gratuity and provident fund.

6. Heard the arguments and perused the record.

7. Scope of interference while exercising jurisdiction under Articles 226/227 of the Constitution of India in disciplinary proceedings is very limited. The High Court has no power to look into quantum of sentence/punishment unless and until Court finds that sentence awarded is disproportionate to alleged offence. It is further settled proposition of law that High Court while exercising its jurisdiction under Article 226 of Constitution of India can look into the procedure followed by authorities. In case, it is found that Inquiry Officer or Disciplinary Authority has not considered any evidence on record or misread the evidence or procedure as prescribed by law has not been followed, the Court can interfere. A two-judge Bench of Hon'ble Supreme Court in ***Union of India and others v. Subrata Nath, 2022 LiveLaw (SC) 998*** while advertizing with scope of interference under Article 226 of the Constitution of India in disciplinary proceedings has held that departmental authorities are fact finding authorities. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct.

8. A Constitution Bench in ***Syed Yakoob v. K.S. Radhakrishnan, AIR 1964 SC 477*** and a two judge bench of the Hon'ble Supreme Court recently in Central Council for Research in ***Ayurvedic Sciences and another v. Bikartan Das and others 2023 SCC Online SC 996*** have reminded us that



certiorari under Article 226 of the Constitution of India i.e. (i) High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record; (ii) in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.

9. A perusal of judgment of acquittal reveals that petitioner was implicated on the basis of complaint that he demanded a sum of ₹40,000/- from complainant-Beant Singh (PW-7). The alleged payment was made in the presence of Jaan Pal Singh (PW-8). He returned said payment to complainant because of complaint to Superintendent of Police. Both the witnesses turned hostile which compelled the Trial Court to acquit the petitioner. The said acquittal cannot be treated as honourable acquittal whereas it was on account of witnesses turned hostile.

10. The petitioner has challenged impugned orders on technical grounds. He has not raised dispute on merits. There is no allegation of *mala*



fide or connivance against Disciplinary Authority. In such circumstances, it would be inequitable and unfair to interfere with impugned orders awarding punishment of stoppage of 2 annual increments with permanent effect. Court is not oblivious of the fact that interference in such type of cases discourages higher Police Officials to take action against erring subordinates.

11. The petitioner was subjected to departmental inquiry. The authorities duly followed prescribed procedure. Inquiry Officer examined witnesses and thereafter submitted his report. The petitioner was given full opportunity to put-forth his stand. Thus, it cannot be concluded that there was either violation of procedure or authorities did not appreciate evidence on record. Interference by this Court in impugned orders would amount to substitution of opinion of departmental authorities which is impermissible in law. Punishment awarded is incommensurate to offence committed by him. Standard of evidence in departmental and criminal proceeding is different. Different yardstick is applied in both proceedings, thus, mere acquittal in criminal case cannot be ground to set aside departmental punishment.

12. Hon'ble Supreme Court time and again has enunciated that adverse remarks *qua* integrity recorded in ACR adversely affect future prospects of an employee. Writing of confidential reports is an administrative function. Officers reporting upon performance must show objectivity, impartiality and fair assessment, without any prejudices whatsoever and the highest sense of responsibility so as to inculcate devotion to duty, honesty and integrity. Officers get demoralised by negative ACR which reduces their efficacy and efficiency. Confidential reports are



employee's service record at the time of consideration of his case for grant of increments, promotions, retention in service etc. The Courts would normally refrain to interfere with the recording thereof. The reason for such reluctance is because the officer who is entrusted with the duty of writing confidential reports is best suited for this job.

13. In the case in hand, the petitioner has already retired on attaining the age of 56 years. He was not given extension beyond 30.12.2016. Adverse remarks in ACR are not going to affect his pension and other benefits. Further, it is Supervising Authority which knows weakness and strength of its employee. Judicial interference under Article 226 of the Constitution of India is not warranted because there is no mis-use of power or *mala fide* on the part of respondent.

14. 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.

15. The Hon'ble 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.”*

16. 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 premature 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 premature 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 premature 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.

17. In view of aforesaid judgments of Supreme Court, the order of premature 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.

18. 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. From the perusal of record, it is evident that competent authority has considered last 10 ACRs of the petitioner. The order has been passed by the competent authority. The Authority after examining the entire service record formed an opinion that petitioner should be retired at the age of 55 years. There is neither any allegation nor evidence to the effect that there was *mala fide* intention on the part of respondents. As per government instructions dated 17.02.2009, an employee should not be retained beyond 55 years if his integrity is found doubtful and having less than 70% good reports in previous 10 ACRs.

19. It is correct that order passed under Rule 9.18 (1)(c) of PPR cannot be stigmatic, however, in the instant case, interference is not warranted because at the time of passing impugned order, petitioner's integrity in one ACR was found doubtful. He was implicated in a corruption case though was later on acquitted because witnesses turned hostile.

20. There is another aspect of the matter. The respondent by impugned notice/order retired the petitioner on attaining the age of 56 years.

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Said order was passed on 30.09.2016. Had the impugned order not been passed, the petitioner would have worked for two more years. The extended period has passed away. 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, thus, at this stage, no interference is warranted.

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

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

(JAGMOHAN BANSAL)
JUDGE

11.02.2026*Mohit Kumar*

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