



210

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

**CWP-22594-2018(O&M)
Date of decision : 09.04.2026**

Brij Lal

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH
NALWA**

Present: Mr. Kulwant Singh Dhanora, Advocate and
Ms. Kritika Mandhan, Advocate for the petitioner.

Mr. Gaurav Jindal, Additional A.G., Haryana.

DEEPINDER SINGH NALWA, J. (Oral)

1. In the present writ petition, the petitioner is praying for issuance of a writ in the nature of certiorari for quashing the order dated 23.07.2018 (Annexure P-4), passed by respondent No.3, whereby the promotion granted to the petitioner to the post of Sub Inspector (for short, 'SI') with effect from 13.11.2012 has been withdrawn and his seniority has been ordered to be refixed at the rank of Assistant Sub Inspector (for short, 'ASI').

2. The brief facts of the case are that the petitioner, belonging to the Scheduled Caste category, was appointed as a Constable in the year 1979. He was promoted to the post of Head Constable with effect from 15.11.1999 on the basis of reservation. Thereafter, he was



promoted to the post of ASI with effect from 22.03.2006 and was confirmed on the said post on 31.01.2009. The said promotion was also granted on the basis of reservation. Subsequently, the petitioner was promoted to the post of SI with effect from 13.11.2012, by again extending the benefit of reservation policy. The petitioner later sought voluntary retirement, which was accepted, and he was voluntarily retired from service on 31.12.2013. After a lapse of more than four years from the date of his retirement, a show cause notice dated 05.02.2018 (Annexure P-1) was issued to him stating that undue benefit of promotion to the rank of SI was given to the petitioner, as such, the abovesaid benefit of promotion was liable to be withdrawn. The petitioner submitted a reply to the said show cause notice asserting that there was no fraud, misrepresentation or concealment of facts on his part in regard to the promotion granted on the post of SI and, as such, the benefit of promotion granted on the post of SI could not be withdrawn nor could his pay be refixed. However, respondent No.3, vide order dated 23.07.2018 (Annexure P-4), withdrew the promotion granted to the petitioner as SI and refixed his seniority at the rank of ASI. A perusal of the order dated 23.07.2018 (Annexure P-4) would show that no recovery of pay was ordered, considering that the petitioner had actually worked on the post of SI. Aggrieved by the said order dated 23.07.2018 (Annexure P-4), the petitioner has approached this Court by way of the present writ petition.

3. Learned counsel appearing for the petitioner submits that the promotion granted to the petitioner on the post of SI, on the basis of



reservation, was not obtained by any fraud, misrepresentation, or concealment of facts. He submits that the respondents themselves applied the reservation policy and promoted the petitioner on the post of SI accordingly. He further submits that as there was no fault on the part of the petitioner, the benefit of promotion granted to the petitioner of SI could not have been withdrawn, nor could his pay be refixed at the rank of ASI.

4. On the other hand, learned State counsel submits that the petitioner was inadvertently promoted to the post of SI on the basis of reservation, despite there being no provision for reservation at the level of post of SI. He further submits that no employee can derive benefit from a mistake, and therefore, the action of the Department in withdrawing the promotion and refixing the pay of the petitioner at the rank of ASI is legal and justified.

5. I have heard learned counsel for the parties at length and perused the paper-book along with records.

6. The only issue involved in the present writ petition is whether, after the petitioner has voluntarily retired from service, the respondents can withdraw the benefit of promotion granted to him of the post of SI on the basis of reservation and also refix his pay at the rank of ASI.

7. A perusal of the facts of the case would show that the petitioner has voluntarily retired from service on 31.12.2013. Show cause notice seeking to withdraw the benefit of promotion was issued to the petitioner on 05.02.2018 (Annexure P-1), i.e., after a lapse of



more than four years from the date of his retirement. Vide order dated 23.07.2018 (Annexure P-4), the benefit of promotion granted to the petitioner has been withdrawn and seniority along with pay has been refixed. It is well settled law that upon retirement, the relationship of master and servant between the employer and employee comes to an end. Once an employee has ceased to hold any post, the question of withdrawing the promotion does not arise. In the present case, it is not the stand of the respondents that the petitioner obtained the promotion to the post of SI by way of fraud, misrepresentation or concealment of facts. Furthermore, no statutory provision or rule has been brought to the notice of this Court which permits withdrawal of promotion from an employee after retirement.

8. Taking into consideration the aforesaid facts and circumstances of the case, the impugned order dated 23.07.2018 (Annexure P-4) cannot be sustained in the eyes of law and is hereby quashed. The petitioner shall be entitled to pensionary benefits by treating the petitioner to have been retired from the post of SI.

9. Accordingly, the present writ petition is allowed in the aforesaid terms.

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

09.04.2026

d.gulati

(DEEPINDER SINGH NALWA)

JUDGE

Whether speaking / reasoned :

Yes

No

Whether Reportable :

Yes

No