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

LPA-3592-2025 (O&M)

Date of decision: 23.04.2026

KANWAR BHAN

....Appellant

Versus

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Sumit Sangwan, Advocate
for the appellant.

Mr. Pankaj Middha, Addl. Advocate General, Haryana.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This appeal challenges the judgment of the learned Single Judge dated 24.09.2015, whereby his writ petition filed with the prayer to allow him to continue in service till the age of 60 years has been dismissed.
2. It is undisputed that the appellant suffers from disability to the extent of 80%. He places reliance upon the provisions of Rule 143 of the Haryana Civil Services (General) Rules, 2016 (for short, '2016 Rules') to contend that on account of disability being above 70%, the appellant is entitled to continue in service till the age of 60 years. The prayer in that regard has been rejected by the learned Single Judge, holding that the applicable statute which would regulate the age of superannuation for a police personnel of Haryana would be the provisions contained in the Punjab Police Rules, 1934 (as applicable to the State of Haryana) (for short 'PPR'), and not the provisions of the 2016 Rules, as had been relied upon by the appellant.



3. The learned Single Judge has referred to the relevant provisions of the PPR, as applicable to the State of Haryana, and has dismissed the claim by observing as under:-

“4. The petitioner was part of Haryana Police Force. He was a non-gazetted officer. He was governed by Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short ‘PPR’). Rules 9.15 and 9.16 of PPR provide that age of retirement except in exceptional circumstances would be 58 years. Only in very exceptional circumstances and with the approval of Inspector General of Police (now designated as Director General of Police) a non-gazetted officer may be retained beyond 58 years. Rules 9.15 and 9.16 of PPR are reproduced as below:-

“9.15. Superannuation pension.- A superannuation pension is granted to a Government Servant entitled or required by rule 3.26 of the Punjab Civil Services Rules, Volume I, Part I, to retire at a particular age. No claims to compensation from a Government servant who is required to retire at a particular age under rules will be entertained.

9.16. Retention in service of Government servant after age of 58 years.- Under Rule 3.26 (a) of the Punjab Civil Services Rules Vol. 1, Part I, a non-gazetted Government servant must not be retained in the service after the age of compulsory retirement that is 58 years, except in exceptional circumstances with the sanction of the competent authority on public grounds, which must be recorded in writing.

***Explanation.-** A Government servant can be retained in the service in very exceptional circumstances. The sole justification for allowing retention in exceptional cases shall be the interest of the public service. The question, in fact, is not whether it will benefit an officer to retain him but whether the interests of the department will suffer if the officer is not retained. Only in very exceptional circumstances will the Inspector-General exercise his powers under the rule, which will apply with equal force to all ranks of non-gazetted categories of employees.”*



5. The petitioner is claiming that Rules 9.15 and 9.16 of PPR have borrowed provisions from Punjab Civil Services Rules which are not in force qua State of Haryana, thus, Rules 9.15 and 9.16 are inapplicable.

*Contention of the petitioner is wholly misconceived and an attempt to mislead the Court. Rules 9.15 and 9.16 of PPR are still in force and fall within definition of 'existing law' as contemplated by Article 366 of Constitution of India. As per judgment of Hon'ble Supreme Court in **Pankajakshi v. Chandrika, (2016) 6 SCC 157**, the 'existing law' prevails even if there is repugnancy between central Act and 'existing law'. Article 254 of Constitution of India is inapplicable to 'existing law' and Article 372 is applicable."*

4. Learned counsel for the appellant has vehemently urged that the provisions of Rule 9.15 and 9.16 would not be attracted, inasmuch the prescription of age under the Punjab Civil Services Rules in Rule 9.15 is the legislation by reference and any subsequent change in the provision would make it inapplicable. For such purposes, learned counsel for the appellant has placed reliance upon the provisions of the 2016 Rules which have been made by the State of Haryana exercising the powers under proviso to Article 309 of the Constitution of India. Rule 7 of 2016 Rules has been relied upon, which reads as under:-

"7. Repeal-

(1) The Punjab Civil Services Rules, Volume-I, Part-I and II (applicable to Haryana State) are hereby repealed."

5. Learned counsel has further referred to the provisions of 2016 Rules in order to claim continuance in service upto the age of 60 years. Learned counsel has also placed before us several judgments which had dealt with the distinction between the legislation by incorporation and legislation by reference in order to buttress his submission that the subsequent amendment made in the



2016 Rules would result in inapplicability of the previous provisions of Rule 3.26(a) of the Punjab Civil Services, and therefore the judgment of the learned Single Judge requires interference.

6. The submission advanced on behalf of the appellant is opposed by Mr. Pankaj Middha, who appears for the State of Haryana. He points out that the provisions of PPR were made in exercise of the provisions contained under the Police Act, 1861 and continued to be applicable upon the employees of the State of Haryana even after its creation pursuant to the Punjab Reorganization Act, 1966. It is pointed out that the provisions of the PPR continued to be applicable upon the police personnel of the State of Haryana with modifications made in those Rules specifically for the State of Haryana. It is submitted that the provisions of 2016 Rules have no applicability in the facts of the present case and the argument of the appellant is misconceived. It is further argued that the State of Haryana has enacted the Haryana Police Act, 2007 wherein Section 96 provides for repeals and saving. Section 96 in its entirety is reproduced as under:-

“96. Repeal and saving

(1) The Police Act, 1861 (Act 5 of 1861), in its application to the State of Haryana, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or any proceeding instituted under the Act so repealed and the rules made thereunder, shall be deemed to have been done or taken or instituted under this Act.

(3) All references in any enactments to any of the provisions of the Act so repealed shall be construed a reference to the provisions of this Act.

(4) The Punjab Police Rules framed under the Police Act, 1861 (Act 5 of 1861), as applicable to the State of Haryana, shall be deemed to have been framed under this Act till new rules are framed under this Act.”



7. Learned State counsel has then placed before us the provisions of the Haryana Police (Non Gazetted and Other Ranks) Service Rules, 2017 (for short ‘2017 Rules’), to show that the provisions of the PPR (as applicable to the State of Haryana) continue to remain applicable, except for the aspects which are specifically provided for in the Rules of 2017. Our attention has also been invited to Rule 14 of the Rules of 2017, which reads as under:-

“14. In respect of pay, leave, pension and all other matters, not expressly provided for in these rules, the members of the Service shall be governed by the Punjab Police Rules, 1934 as amended from time to time and as applicable to the State of Haryana.”

8. It is with reference to the above provisions that an argument is advanced on behalf of the respondents that the provisions of the PPR, so far as applicable to the State of Haryana, continue to govern the conditions of service including the age of superannuation of a police personnel in the State of Haryana, and the argument advanced on behalf of the appellant has no merit.

9. We have heard learned counsel for the parties and have carefully perused the material available on record. The issue raised herein is with regard to the age of superannuation of police personnel in the State of Haryana. The learned Single Judge has relied upon clause 9.15 and 9.16 which restricts the age of superannuation to be 58 years. It is only in exceptional circumstances with the sanction of competent authority on public grounds that the extension in service can be allowed keeping in view the language employed in explanation to Rule 9.16. It is not the case of the appellant that he is entitled to continue in service by virtue of clause 9.15 and 9.16. The claim of the appellant is that these provisions prescribing the age of superannuation are itself not applicable upon the appellant



by virtue of repeal of the provision of PPR on account of coming into existence of 2016 Rules. Rule 7 of the 2016 Rules is the sheet anchor of the appellant's case.

10. We have considered the submission of the appellant, and we do not find any merit in it, for the simple reason that for the police personnel employed in the State of Haryana, the provisions contained in 2016 Rules are not shown to be applicable. The service conditions of police personnel employed in the State of Haryana continued to be governed by the provisions of the Punjab Police Rules, 1934 as applicable to the State of Haryana, insofar as it remains operative keeping in view the provisions of the Haryana Police Act, 2007 as well as the Rules framed under the said Act i.e. the 2017 Rules. A combined reading of the statutory provisions would go to show that the police personnel employed in the State of Haryana who were earlier regulated by the provisions of PPR framed under the Police Act, 1861 continued to be regulated by it, except for the areas which are covered by the 2017 Rules. The 2017 Rules do not prescribe the age of superannuation. The only provision under the PPR that regulates the age of superannuation is clause 9.15 and 9.16 of PPR. Once we find that the PPR have not been repealed in respect of the police personnel, and the 2017 Rules are otherwise not applicable upon them, so as to attract the provisions of Rule 7(1) of 2016 Rules upon such employees, the argument of the appellant that he would be governed by the provisions of the 2016 Rules or that the PPR would not be applicable, has no legs to stand.

11. Once we find that it is the PPR which continue to regulate the conditions of service of police personnel employed in the State of Haryana and there is no subsequent change made therein, there would be no applicability of



the legal question which is urged on behalf of the appellant. The question as to whether it is a case of legislation by reference or by incorporation or the distinction sought to be drawn on the basis of it, will have no applicability.

12. Learned counsel for the appellant has also placed reliance upon the provisions contained in clause 3.27 of Punjab Civil Services, which reads as under:-

“3.27. Notwithstanding anything contained in rule 3.26, the date of retirement of a Government employee (other than a Group ‘D’ employee), who is suffering from any of the disabilities viz., blindness or low vision, hearing impairment, locomotor disability or cerebral palsy, shall be the date on which he attains the age of 60 years instead of 58 years:

Provided that whenever an appointing authority has reason to believe that such a Government employee is mentally or physically unsuitable to discharge the duties of the post held by him, it shall require him to appear before a Civil Surgeon for a medical check-up and his continuance in the Government service beyond the age of 58 years, shall be subject to being declared fit on such medical check-up.”

13. Learned counsel, therefore, submits that reference to the Punjab Civil Services Rules would necessarily include the subsequent amendment introduced in the Punjab Civil Services Rules by virtue of Rule 3.27, and therefore, the appellant suffering from disability must be allowed to continue till the age of 60 years as per clause 3.27. The argument in this regard also cannot be accepted, inasmuch as the PPR and the Punjab Civil Services are two distinct provisions. So far as police personnel are concerned, it is PPR which are applicable. In clause 9.15 and 9.16, where it relates to the age of superannuation of a police personnel, the reference to Punjab Civil Services Rules is restricted to clause 3.26. There is no subsequent amendment introduced in clause 3.26.

14. Therefore, even if we accept that any subsequent amendment in



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PPR would be introduced and made applicable for the employees of the State of Haryana, yet we cannot extend such benefit to the appellant.

- 15. In view of above, appeal stands dismissed.
- 16. Pending applications, if any, shall stand disposed of accordingly.

(ASHWANI KUMAR MISHRA)
JUDGE

APRIL 23, 2026
mohit goyal

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

(ROHIT KAPOOR)
JUDGE