

(2025) 09 P&H CK 0886
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1243 Of 2021

Sarjit Singh

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 26-09-2025

Acts Referred:

Constitution Of India, 1950 — Article 226, 227
Haryana Civil Services Rule, 2016 — Rule 10, 146, 149
Punjab Police Rules, 1934 — Rule 9.18, 14.11, 14.11(2), 16, 16.28

Citation : (2025) 09 P&H CK 0886

Hon'ble Judges : Jagmohan Bansal, J

Bench : Single Bench

Advocate : Aditya Yadav, Ravi Partap Singh

Final Decision : Dismissed

Judgement

Jagmohan Bansal, J

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 09.11.2020 whereby Inspector General of Police (in short 'IGP'), South Range, Rewari has quashed order dated 26.03.2018 vide which Superintendent of Police (in short 'SP') Nuh reinstated him.

2. The petitioner joined Haryana Police Force as Constable on 05.06.1992. He was promoted as Head Constable in 2004 and Assistant Sub Inspector (in short 'ASI') in 2011. He cleared Upper School Course and became eligible for the post of Sub Inspector. He served notice dated 08.09.2017 upon SP, Nuh expressing his willingness to retire on expiry of three months' period. The jurisdictional SP accepted his application vide order dated 27.09.2017. The petitioner filed application dated 14.03.2018 seeking permission to withdraw his notice seeking voluntary retirement. The said application was considered by SP, Nuh and allowed vide order dated 26.03.2018. He was ordered to be taken back in service. The said order came to be reviewed and set aside vide order dated

15.06.2018 passed by IGP, Rewari. The petitioner preferred CWP-17013-2018 assailing order dated 15.06.2018. This Court vide order dated 13.07.2018 set aside order dated 15.06.2018 on the ground of violation of principles of natural justice. IGP was granted liberty to pass fresh order after issuing notice to petitioner and granting opportunity of hearing. Additional Director General of Police (in short 'ADGP') Rewari issued him show cause notice dated 28.09.2018 calling upon to show cause notice as to why order dated 26.03.2018 passed by SP Nuh should not be declared null and void. The petitioner filed reply to show cause notice. The matter again came to be adjudicated by IGP, Rewari who vide impugned order dated 09.11.2020 recalled order dated 26.03.2018 passed by SP, Nuh. The order was passed on the ground that as per Rule 149 of Haryana Civil Services Rule, 2016 (in short 'Service Rules') there is no provision for taking back any employee in service after lapse of intended date of retirement.

3. Learned counsel for the petitioner submits that IGP, Rewari had no power to recall order of SP, Nuh. Authority prescribed under Rule 149 of Service Rules is Superintendent of Police. The petitioner was holding rank of ASI, thus, his appointing authority was SP. As per Rule 149 of Service Rules, the appointing authority has power to accept notice for voluntary retirement and recall order accepting resignation. The petitioner's notice seeking voluntary retirement was accepted by SP, thus, he was competent to accept letter seeking recalling of notice seeking voluntary retirement. The said authority was competent to recall notice of voluntary retirement even after its acceptance.

4. Per contra, learned State counsel submits that there is no provision to accept withdrawal of notice of voluntary retirement after the expiry of intended period. The petitioner served notice on 08.09.2017 and intended period expired on 07.12.2017. He filed application seeking permission to withdraw notice of voluntary retirement on 14.03.2018. The petitioner has already missed opportunity to withdraw his notice, thus, SP, Nuh could not pass impugned order. IGP being higher administrative authority was bound to rectify mistake of his subordinate. Order dated 26.03.2018 was not a quasi-judicial order whereas it was an administrative order. Higher authority was duty bound to correct mistake committed by his subordinate.

5. I have heard learned counsel for the parties and perused the record of the case.

6. The conceded position emerging from record is that the petitioner served notice dated 08.09.2017 seeking voluntary retirement. The intended date of retirement was 07.12.2017. The jurisdictional SP accepted his request on 27.09.2017. He filed application on 14.03.2018 seeking permission to withdraw notice dated 08.09.2017. The application was allowed on 26.03.2018 and petitioner was taken back in service.

7. There is no specific provision adverting to voluntary retirement of police officials governed by Punjab Police Rules, 1934 (as applicable to State of

Haryana) (in short 'PPR') though there is reference under Rules 9.18 and 14.11 of PPR. Relevant extracts of Rules 9.18 and 14.11 are reproduced as below:

"9.18. Retiring pension - (1) Notwithstanding anything contained in these rules, a retiring pension is granted to an officer-

(a) who is permitted to retire from service after completing qualifying service for twenty-five years or such lesser period as may, for any class of officers, be prescribed; or

(b) who is compulsorily retired under sub-rule (2) after completing twenty five years' qualifying service;

(c) who is retired by the appointing authority on or after he attains the age of 55 years, by giving him not less than three months' notice; or

(d) who retires on or after attaining the age of 55 years by giving not less than three months' notice of his intention to retire to the appointing authority: Provided that where the notice is given before the age of fifty-five years so attained, it shall be given effect to from a date not earlier than the date on which the age of fifty-five years is attained.

Note.- Appointing authority retains an absolute right to retire any Government servant on or after he has attained the age of 55 years without assigning any reason. A corresponding right is also available to such a Government servant to retire on or after he has attained the age of 55 years"

"14.11 Resignation of appointment.- (1) Resignation of police officers may only be accepted by the officer empowered to appoint them.

(2) An enrolled police officer who intends to resign from the police service shall give notice to that effect in writing and ordinarily shall be permitted to withdraw himself from duty until two months have elapsed from the date on which his resignation was tendered:

Provided that the Superintendent may, at his discretion, allow a Head Constable or Constable to credit to Government two months' pay in lieu to notice.

(3) Ordinarily a Head Constable or Constable who has agreed to serve for three years shall not be permitted to resign within that period.

(4) Probationary Inspectors, Sergeants, Sub- Inspectors and Assistance Sub-Inspectors of Police, whose appointments involve training at the Police Training School, Phillaur, shall not be permitted to resign within three years of the date of their appointment."

[Emphasis supplied]

8. From the perusal of above quoted rules, it is evident that a police officer is entitled to pension if he is permitted to retire after completing qualifying service of 25 years. As per Rule 14.11(2) of PPR an officer may withdraw notice of

resignation before the expiry of two months from the date of his resignation was intended. Rule 14.11 does not provide for pension whereas Rule 9.18 provides for pension where there is voluntary retirement on completing qualifying service.

9. Both sides are claiming that notice of voluntary retirement was filed under Rule 146 of Service Rules and it could be withdrawn under Rule 149. Rules 146 and 149 of Service Rules are reproduced as below:-

"146. Voluntary retirement on attaining the prescribed age or qualifying service.—

(1) A Government employee of any group may, by giving a notice of not less than three months in writing to the appointing authority, seek voluntary retirement from service on completion of minimum twenty years' qualifying service irrespective of his age or on attaining the prescribed age irrespective of his length of service, subject to acceptance of notice by the appointing authority and also subject to Rule 10 of the Haryana Civil Services (Pension) Rules, 2016. The minimum age prescribed for the purpose is:-

(i) 50 years for the Government employees who are working on a post of Group 'A' or 'B' and joined service on any post before attaining the age of thirty five years;

(ii) 55 years for the Government employees who are working on a post of Group 'A' or 'B' and joined service on any post after attaining the age of thirty five years; and

(iii) 55 years for all other Government employees. Provided that in the case of Judicial Officer, he shall have the option to retire on or after attaining the age of fifty-eight years, which should be exercised by him in writing before he attains the age of fifty-seven years. A Judicial Officer who does not exercise such option before he attains the age of fifty-seven years, would be deemed to have opted for continuing in service till the age of superannuation.

(2) The retirement shall become effective from the date of expiry of the notice period, where the appointing authority does not refuse to grant the permission for voluntary retirement before the expiry of the said period;

(3) A Government employee who gives notice of voluntary retirement, shall satisfy himself by means of a reference to the appropriate authority that he has, in fact, completed twenty years' or more qualifying service.

Note 1.? In computing the notice period of three months the date of service of the notice and the date of its expiry shall be included.

Note 2.? Heads of Departments shall report to Government in each quarter, the action taken under this rule.

149. Withdrawal of notice of voluntary retirement.—

Notice of voluntary retirement shall not be withdrawn without specific approval of the appointing authority. The request in this regard made before the date of

intended retirement may be considered by the competent authority irrespective of the fact that orders of voluntary retirement have been made or not.”

10. The petitioner is claiming that as per Rule 146 and 149 it is SP who is competent to accept notice of voluntary retirement and permit to withdraw said notice. There is substance in the contention of the petitioner. His contention deserves to be countenanced because SP as per Rule 12.1 of PPR is appointing authority of ASI. This Court vide judgment dated 13.02.2025 passed in CWP-2766-2025 titled as 'Naresh Kumar Vs. State of Haryana and Ors.' has clearly held that SP is appointing authority of ASI.

11. The petitioner is further claiming that IGP had no power to review order passed by SP. This is second round of litigation. This Court vide order dated 13.07.2018 permitted IGP to pass fresh order after issuing show cause notice and granting opportunity of hearing to the petitioner. Firstly, in view of said order, argument of petitioner that IGP could not review order of SP does not sustain. Secondly, IGP has not reviewed order of SP under Rule 16.28 of PPR. Awards passed by subordinate authorities may be reviewed by higher authorities. Chapter 16 of PPR deals with disciplinary proceedings, thus, power under Rule 16.28 of PPR is exercised with respect to an order passed by authority acting as disciplinary authority. The order dated 26.03.2018 was not passed by SP as disciplinary authority whereas it was passed as an appointing authority on the administrative side. It was not an order emanating from disciplinary proceedings. If the contention of petitioner is accepted that even an illegal order passed by a subordinate authority cannot be set aside by higher authorities, it would create chaos as well as anarchy. An authority intentionally or otherwise may pass a totally illegal order. If it is held that higher authority has no power to rectify an illegal order, the order passed by his subordinate would sustain irrespective of its colour, contour and nature. It may lead to dire consequences. This Court cannot subscribe said proposition. To maintain law and order, it is necessary for the higher authorities to rectify orders of lower authorities. Intent and purpose of creating multiple authorities in the hierarchy would be defeated if higher authorities are not permitted to rectify illegal orders of subordinates.

12. In the instant case, the petitioner filed application seeking withdrawal of his notice for voluntary retirement after the expiry of intended period. The notice was served on 08.09.2017. As per applicable Rules, the petitioner was required to serve three months' notice. The petitioner in his notice disclosed three months' period as intended date of retirement. The said period expired on 07.12.2017. His notice was accepted on 27.09.2017. On account of Rule 149 of Service Rules despite acceptance of his notice for voluntary retirement, he could withdraw his notice till 07.12.2017 i.e. intended date of retirement. As soon as 07.12.2017 passed away, he lost right to withdraw his notice of voluntary retirement and authorities lost power to accept his letter seeking withdrawal of notice. IGP has rightly recalled order dated 26.03.2018 passed by SP, Nuh on the ground of jurisdiction. There is correct appreciation of Rule 149 of Service Rules.

13. In the wake of above discussion and findings, this Court is of the considered opinion that the instant petition deserves to be dismissed and accordingly dismissed

14. Pending application(s), if any, also stands disposed of.