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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9044/2026, CM APPLs. 42365/2026 & 42366/2026**
COMMISSIONER OF POLICE & ANR.Petitioner
Through: **Ms. Neha Rastogi, SPC with**
Mr. Animesh Rastogi and Mr.
Rajat Dubey, Advs.
versus

EX. CONSTABLE (EXE.) CHAND PRAKASHRespondent
Through: **Mr. Sachin Chauhan, Adv.**

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

JUDGMENT (ORAL)

% **27.07.2026**

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Writ Petition has been preferred by the **Commissioner of Police, Delhi & Ors.**¹ challenging the **Order dated 15.12.2025**² passed by the **Central Administrative Tribunal (CAT), Principal Bench, New Delhi**³, in Original Application (OA) No. 3147/2025, whereby the **Order dated 21.10.2024**⁴ of premature retirement of **Ex. Constable Chand Prakash**⁵ was quashed, directing his reinstatement with all consequential benefits.

FACTUAL MATRIX:

2. The facts leading to the present Petition commence with an Office Memo dated 27.10.2020, wherein the **Deputy Commissioner**

¹ Petitioners

² Impugned Order

³ CAT

⁴ Retirement Order

⁵ Respondent



of Police⁶ (Vigilance), New Delhi, directed a periodic screening of police personnel for premature retirement for the period 01.04.2020 to 30.06.2021, under the provisions of **Fundamental Rule 56(j) and Rule 42 of the CCS (Pension) Rules, 2021 (formerly Rule 48 of the 1972 Rules)**⁷.

3. Following these directives, the Screening Committee evaluated the records of 55 police personnel of Upper and Lower Subordinates posted in the 7th Battalion, Delhi Armed Police (DAP), and recommended 6 personnel, including the Respondent, for premature retirement. The cases were subsequently placed before the **Single Review Committee at the Police Headquarters (PHQ) level**⁸ for consideration.

4. During the examination of the Respondent's entire service record, the Committee took note of multiple adverse entries and instances of misconduct, specifically:

- a. Involvement in FIR No. 379/1999 (u/s 323/509 IPC): Although the Respondent was later acquitted, he was awarded a major departmental punishment of withholding of increments for two years without cumulative effect *vide* Order dated 29.06.2000 for failing to intimate the department about the criminal case registered against him.
- b. Consumption of Alcohol on Duty: The Respondent was found consuming alcohol on duty in an inebriated condition while posted in the Traffic Unit, for which he was arrested and a *Kalandra* was prepared. This culminated in a departmental punishment of forfeiture of one year of service temporarily *vide*

⁶ DCP

⁷ FR 56(j) read with Rule 42

⁸ Committee



order dated 22.08.2012.

c. Involvement in FIR No. 439/2012 (u/s 308/452/323/324/506/34 IPC): The Respondent was implicated in a family dispute involving severe allegations of beating the complainant with iron rods. While he was exonerated in the ensuing departmental inquiry, the criminal trial remains pending.

5. Concluding that the aforementioned acts adversely impacted the integrity, discipline, and image of the Police Department, the Committee recommended premature retirement of the Respondent in the public interest.

6. Consequently, DCP, 7th Battalion, DAP, New Delhi, based on the recommendations of the Committee issued the Retirement Order.

7. The Respondent subsequently submitted representations seeking a review of this Retirement Order, which were duly examined by the Representation Committee but ultimately rejected as devoid of merit *vide* a **Memo dated 22.05.2025**⁹, communicated to the Respondent on 30.05.2025.

8. Aggrieved by his premature retirement and the rejection of his representations, the Respondent approached the **Central Administrative Tribunal**¹⁰ in OA No. 3147/2025.

9. The learned CAT, *vide* the Impugned Order, allowed the aforesaid Original Application and set aside the Retirement Order.

10. Learned CAT, while setting aside the Retirement Order, observed that the Respondent had been exonerated in the departmental proceedings arising out of FIR No.439/2012 and had consistently earned “Very Good” and “Excellent” **Annual Performance**

⁹ RC Memo

¹⁰ CAT

**Appraisal Reports¹¹/Annual Confidential Reports¹².**

11. The learned CAT was of the opinion that the decision to compulsorily retire the Respondent was not preceded by a holistic consideration of his service record and consequently suffered from legal infirmity.

12. The Petitioners have assailed the learned CAT's Order before this Court primarily on the ground that the learned CAT committed an error by selectively viewing the Respondent's service record and failing to consider the totality of his service, particularly the major punishments awarded to him in the past and that the CAT impermissibly substituted its own judgment for the subjective satisfaction of the Review Committee, thereby exceeding the limited scope of judicial review in such administrative actions.

13. Aggrieved thereby, on the aforesaid grounds, the present Petition has been preferred.

SUBMISSIONS ON BEHALF OF THE PARTIES:

14. Learned counsel appearing on behalf of the Petitioners assails the Impugned Order principally on the ground that the learned CAT has exceeded the permissible limits of judicial review while setting aside the order of premature retirement passed under FR 56(j) read with Rule 42.

15. Learned counsel submits that the order of premature retirement was passed only after the Respondent's entire service record was examined by the Screening Committee and thereafter by the Single Review Committee, which formed the requisite opinion that the Respondent's further retention in service was not in public interest. It

¹¹ APAR

¹² ACR



is submitted that the Representation Committee also independently considered the Respondent's representation before rejecting the same by a reasoned order.

16. Learned counsel for the Petitioner contends that the learned CAT failed to appreciate that an order passed under FR 56(j), *i.e.*, the Retirement Order, is founded upon the subjective satisfaction of the competent authority and is neither punitive nor stigmatic in nature. Consequently, the scope of judicial review is confined to examining whether the decision suffers from *mala fides*, arbitrariness, perversity or is based on no material, and does not extend to substituting the learned CAT's own assessment for that of the competent authority.

17. Learned counsel for the Petitioners further submits that the Respondent did not possess an unblemished service record. It is urged that the competent authority had before it the punishments awarded to the Respondent during service, his involvement in criminal proceedings and the remaining service record before arriving at the conclusion that his continuation in service was not in public interest.

18. Learned counsel places reliance upon the decision of the Hon'ble Supreme Court in ***Baikuntha Nath Das v. Chief District Medical Officer***¹³ to contend that the entire service record, including past penalties, and that uncommunicated adverse remarks can also be taken into consideration. Further, that judicial review is confined to examining the decision-making process and not the correctness of the decision itself.

19. Learned counsel also relies upon the judgment of this Court in ***Ajay Kumar Sharma v. Commissioner, South Delhi Municipal***

¹³ AIR 1992 SC 1020



Corporation¹⁴ to contend that while the authority is required to consider the entire service record, the satisfaction ultimately arrived at remains subjective and is not amenable to appellate scrutiny merely because another view may also be possible.

20. On the strength of aforesaid authority, learned counsel for the Petitioners submits that the presence of “Very Good” or “Outstanding” ACRs does not wipe out or eclipse the negative inputs and past major penalties in an employee's service record. Even a single major penalty can be sufficient to justify the decision to compulsorily retire an officer, provided the decision is not vitiated by mala fides. The learned CAT committed a grave error by selectively relying on the Respondent's recent APARs/ACRs and exoneration in one departmental inquiry while turning a blind eye to the established past penalties

21. It is, therefore, submitted that the learned CAT has erroneously interfered with an order passed in exercise of the competent authority's subjective satisfaction and has effectively substituted its own assessment of the service record for that of the Review Committee, which is impermissible in law.

22. Learned counsel accordingly prays that the Impugned Order be set aside and the Original Application preferred by the Respondent be dismissed.

23. **Per contra**, Mr. Nilansh Gaur, learned counsel appearing on behalf of the Respondent, supports the Impugned Order passed by the learned CAT and submits that the learned CAT has rightly interfered with the Retirement Order upon finding that the decision-making process adopted by the Petitioners suffered from serious legal

¹⁴ 2025:DHC:4466-DB



infirmities.

24. Learned counsel submits that the Retirement Order is punitive in substance and has been passed merely to circumvent the ordinary disciplinary process.

25. Learned counsel for the Respondent contends that the Respondent had already been acquitted in FIR No.379/1999 and, insofar as FIR No.439/2012 is concerned, although the criminal proceedings are stated to be pending, a departmental inquiry conducted on the very same allegations culminated in the Respondent's exoneration. It is, therefore, submitted that the Petitioners could not have relied upon the mere pendency of the criminal proceedings to invoke the provisions of FR 56(j) read with Rule 42.

26. Learned counsel for the Respondent also places considerable emphasis upon the Respondent's service record and submits that the APAR/ACRs for the preceding years consistently record gradings of "Very Good" and "Excellent", without any adverse remarks regarding the Respondent's integrity. It would be submitted that the omission to consider such a material component of the service record vitiates the very decision-making process and renders the order of premature retirement legally unsustainable.

27. Learned counsel accordingly submits that the learned CAT has neither re-appreciated the service record nor substituted its own opinion for that of the competent authority. Rather, it has confined itself to examining whether the statutory exercise undertaken under FR 56(j) was in accordance with law.

28. It is, therefore, prayed that the present Writ Petition, being devoid of merit, be dismissed.



ANALYSIS:

29. This Court has heard the learned counsel appearing for the parties and, with their able assistance, has perused the material placed on record.

30. The controversy in the present Petition lies within a narrow compass, *namely*, whether the learned CAT exceeded the permissible limits of judicial review while interfering with an order of premature retirement passed under FR 56(j) read with Rule 42. It is the case of the Petitioners that the learned CAT impermissibly substituted its own assessment of the Respondent's service record for the subjective satisfaction of the competent authority.

31. Before examining the rival contentions, it would be apposite to advert to the settled principles governing compulsory retirement under FR 56(j). The Hon'ble Supreme Court in *Baikuntha Nath Das (supra)*, after considering the entire line of authorities on the subject, succinctly summarised the governing principles in Paragraph No. 34 of the judgment, which reads as under:

“34. The following principles emerge from the above discussion:

(i) An order of compulsory retirement is not a punishment. It implies no stigma nor any suggestion of misbehaviour.

(ii) The order has to be passed by the Government on forming the opinion that it is in the public interest to retire a government servant compulsorily. The order is passed on the subjective satisfaction of the Government.

(iii) Principles of natural justice have no place in the context of an order of compulsory retirement. This does not mean judicial scrutiny is excluded altogether. While the High Court or this Court would not examine the matter as an appellate court, they may interfere if they are satisfied that the order is passed (a) *mala fide* or (b) that it is based on no evidence or (c) that it is arbitrary -in the sense that no reasonable person would form the requisite opinion on the given material; in short, if it is found to be a perverse order.

(iv) The Government (or the Review Committee, as the case may be) shall have to consider the entire record of service before taking a decision in the matter — of course attaching more



importance to record of and performance during the later years. The record to be so considered would naturally include the entries in the confidential records/character rolls, both favourable and adverse. If a government servant is promoted to a higher post notwithstanding the adverse remarks, such remarks lose their sting, more so, if the promotion is based upon merit (selection) and not upon seniority.

(v) An order of compulsory retirement is not liable to be quashed by a Court merely on the showing that while passing it uncommunicated adverse remarks were also taken into consideration. That circumstance by itself cannot be a basis for interference. Interference is permissible only on the grounds mentioned in (iii) above. This aspect has been discussed in paras 30 to 32 above.”

(Emphasis supplied)

32. The aforesaid principles have recently been reiterated and applied by a Coordinate Bench of this Court in **Ajay Kumar Sharma** (*supra*). While considering a challenge to compulsory retirement, the Coordinate Bench held that where the Review Committee substantially relies upon stale punishments while failing to holistically appreciate consistently favourable ACRs and the overall service profile, the decision-making process itself becomes vulnerable to judicial review. The relevant observations are reproduced hereunder:

“23.2 Re. S.K. Chauhan

23.2.1 In the case of S K Chauhan, the material is even more scanty than was available in the case of Ajay Kumar Sharma. The integrity of the petitioner was continuously certified as beyond doubt in his ACRs from the years 2014-2015 to 2018-2019. The decision to compulsorily retire him from service was sought to be justified on the basis of two penalties awarded to him in 2007-2008, 11 and 12 years prior to the order of compulsory retirement. The order of penalty dated 18 November 2008 was only minor and did not involve any aspect of integrity. In so far as the order of penalty dated 10 December 2007 was concerned, though it was facially a major penalty, that was only because the punishment awarded was with cumulative effect, it would have been a minor penalty. Moreover, though there was a specific allegation of connivance between the petitioner and builders/owners in the charge-sheet, the IO found that the allegations were unsubstantiated, and the DA agreed with him.



23.2.2 Besides, as already noted, there is not a single complaint against the petitioner for 12 years after the imposition of the punishment on 10 December 2007. During these years, his integrity has uniformly been certified as beyond doubt.

23.2.3 Moreover, the proforma, which was placed before the Review Committee, as annexed to the writ petition, reveals that the only ground on which the Review Committee proceeded were the afore- noted two punishments awarded to the petitioner. The entries relating to the number of promotions obtained by him, whether he got timely promotions and overall conduct were all blank. The ACR entries as entered in the said proforma reflect that the petitioner was always graded as either “very good” or “outstanding”.As a result, in this case too, the decision to compulsorily retire the petitioner cannot be said to have been justified on the facts and in the light of the law on the subject as set out hereinbelow.

23.3 Clearly, therefore, the respondents did not properly appreciate the entire service record of the petitioners, or apply their mind properly while deciding to compulsorily retire the petitioners. The decisions are not supported by the material on record. The Tribunal, for its part, with greatest respect, has proceeded cursorily, without a holistic appreciation of the facts.

23.4 Though, facially, an order of compulsorily retirement may not be “stigmatic” or punitive, it prematurely brings the service career of the officer to an ignominiously grinding halt. It has far reaching repercussions on the officer, personally, professionally and socially. When it is made subject to judicial review, the Court is duty bound to holistically examine all the facts of the case, the reasoning which prevailed with the authorities in compulsorily retiring the officer, and whether the reasoning can sustain on the basis of the facts, applying the law that has developed in that regard.

23.5 Nothing less would suffice.”

(Emphasis supplied)

33. Although the aforementioned decisions of **Baikuntha Nath Das** (*supra*) and **Ajay Kumar Sharma** (*supra*) were relied upon by the learned counsel for the Petitioners to emphasise upon the aspect of limited scope judicial review in matters arising under FR 56(j), however, the ratio of the said decisions cannot be read in isolation. These decisions, when read holistically, equally recognise that the



subjective satisfaction of the competent authority must be preceded by a holistic consideration of the employee's entire service record.

34. Therefore, the enquiry before this Court is not whether the favourable material ought to have prevailed over the adverse material, but whether the competent authority demonstrably considered both while recommending that the Respondent's continuation in service was no longer in public interest.

35. In the present case, the record reveals that the recommendation of the Review Committee substantially rests upon three incidents, *namely*: (i) the punishment imposed in the year 2000 consequent to the Respondent's failure to intimate the department regarding registration of FIR No.379/1999; (ii) the punishment imposed in the year 2012 on account of consumption of alcohol while on duty; and (iii) the Respondent's involvement in FIR No.439/2012, notwithstanding the fact that he stood exonerated in the departmental proceedings arising out of the very same allegations, though the criminal trial is stated to be pending.

36. There can be no quarrel with the proposition that the aforesaid incidents constituted relevant material which the competent authority was entitled to consider while forming an opinion under FR56(j). Equally, past punishments do not lose their relevance merely by efflux of time and may legitimately form part of the overall assessment of an employee's suitability for continued service.

37. Equally, however, the Respondent's service record did not end with the aforesaid incidents. The material on record reveals that for nearly a decade preceding the Retirement Order, the Respondent consistently earned gradings of "Very Good" and "Excellent" in his APARs/ACRs. It is also not the Petitioners' case that during the said



period any adverse remark touching upon the Respondent's integrity was recorded.

38. Although the aforesaid APARs/ACRs formed part of the material placed before the Review Committee, neither the recommendation nor the consequential Retirement Order discloses any discernible evaluation of the said consistently favourable service record. The reasoning proceeds almost exclusively on the basis of the three adverse incidents without indicating how the later service profile of the Respondent was weighed while forming the opinion that his continuation in service was no longer in public interest.

39. This Court is conscious that favourable APARs/ACRs do not erase previous misconduct. Equally, earlier punishments cannot be permitted to eclipse a decade-long consistently satisfactory service record. The requirement under FR 56(j) is not that favourable material must prevail over adverse material, but that both must receive due consideration before the competent authority forms its opinion.

40. It is precisely this defect in the decision-making process which weighed with the learned CAT while interfering with the Retirement Order. A careful reading of the Impugned Order demonstrates that the learned CAT neither reassessed the Respondent's suitability nor substituted its own opinion for that of the competent authority. Rather, it found that the statutory exercise lacked the holistic evaluation of the Respondent's service profile mandated by law.

41. The submission advanced on behalf of the Petitioners that the learned CAT exceeded the permissible limits of judicial review is therefore misconceived. The learned CAT has not directed reinstatement merely because the Respondent possessed favourable APARs/ACRs. It has interfered only because the decision-making



process failed to demonstrate that the favourable service record spanning almost a decade had been duly evaluated alongside the adverse material. Such scrutiny falls squarely within the parameters of judicial review recognised in ***Baikuntha Nath Das*** (*supra*) and applied by this Court in ***Ajay Kumar Sharma*** (*supra*).

42. In the considered opinion of this Court, the learned CAT rightly concluded that the exercise undertaken by the Petitioners did not satisfy the requirement of a holistic consideration of the Respondent's entire service record before invoking the drastic power under FR 56(j). Therefore, in the considered opinion of this Court, no jurisdictional error, perversity or patent illegality is made out warranting interference under Article 226 of the Constitution of India.

43. Accordingly, the present Writ Petition, being devoid of merit, is dismissed. There shall be no Order as to the Costs.

44. The present Writ Petition, along with pending Application(s), if any, is disposed of in aforementioned terms.

HARISH VAIDYANATHAN SHANKAR, J.

C.HARI SHANKAR, J.

JULY 27, 2026/aky/DJ