



2025:DHC:7787-DB



\$~60

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Date of decision: 02.09.2025***

+ W.P.(C) 2176/2021

**SOUTH DELHI MUNICIPAL CORPORATION**

.....Petitioner

Through: Mr. Arun Birbal, Advocate.

versus

**RANVIR SINGH & ANR.**

.....Respondents

Through: Mr. Rajeev Sharma, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE MADHU JAIN**

**NAVIN CHAWLA, J. (ORAL)**

**CM APPL. 37970/2025**

1. This application seeks preponement of the next date of hearing.
2. With the consent of the learned counsels for the parties, the petition is taken up for final hearing today itself.
3. The application is accordingly disposed of.

**W.P.(C) 2176/2021**

4. This petition has been filed challenging the Order dated 22.10.2020 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in OA No. 153/2020, titled ***Ranvir Singh v. South Delhi Municipal Corporation of Delhi***, whereby the learned Tribunal allowed the O.A.



filed by the respondent herein with the following directions:

*“13. The OA is allowed and the impugned order is set aside. The applicant shall be reinstated into service within four weeks from the date of this order. However, he shall not be entitled to arrears of salary. He shall return the retirement benefits, if received by him. There shall be no order as to costs.”*

5. The respondent joined the services of the Municipal Corporation of Delhi as an Assistant Engineer in the year 1998 and was promoted to the post of Executive Engineer, on *ad hoc* basis, in the year 2013, and on a regular basis through selection by the UPSC, on 12.01.2017. Upon bifurcation of the MCD, the respondent came to be allocated to the South Delhi Municipal Corporation. However, by an Order dated 30.09.2019, he was compulsorily retired by the petitioner in exercise of powers under FR 56(j). The representation preferred by the respondent against the said action was also rejected by an Order dated 13.12.2019.

6. Aggrieved thereby, the respondent approached the learned Tribunal, contending therein that he had been imposed with the punishment of stoppage of increment in the year 2007 (wrongly referred to as ‘2006’ in the Impugned Order), whereafter his service record had been consistently good, and he had even been promoted to the post of Executive Engineer in the year 2013, on *ad hoc* basis, and thereafter, in the year 2017 by the UPSC, on a regular basis.

7. On the other hand, it is the case of the petitioner that while taking a decision under FR 56(j), the entire service record of the officer has to be taken into account. Therefore, the punishment of



stoppage of increment with cumulative effect for one year imposed on the respondent in the year 2007 could not be ignored, and the subsequent promotion granted to the respondent would not obliterate the said punishment. Accordingly, the punishment was rightly taken into account by the petitioner while compulsorily retiring the respondent from service.

8. We have considered the submissions made by the learned counsels for the parties.

9. In the counter affidavit filed by the petitioner before the learned Tribunal, the Minutes of the Screening Committee were also furnished, which the learned Tribunal reproduced as under:

<i>"1. RDA No.1/364/2006</i>	<i>Penalty of reduction in present time scale of pay stopped by one stage for a period of one year with cumulative effect vide O.O No. 1/364/2006/ Vig.P/AM/2007/2773 dt. 19.06.2007</i>
<i>2 RDA No.1/393/2006 Charge Sheet issued on 22.08.2006</i>	<i>Penalty of reduction in present time scale of pay stopped by one stage for a period of one year with cumulative effect vide O.O.No.1/ 392/2006/ Vig./P/AM/2007/2774 dt. 19.06.2007</i>
<i>Recommendations of Review Committee</i>	<i>The Service record of the official has been reviewed. He has entered in the Municipal Service prior to attaining the age of 35 years and has completed 50 years of mandatory age for review as per provisions of FR 56 (j). As per entries recorded in his service book &amp; Personal File, aforesaid penalties his integrity during his service. In view of aforesaid penalties his integrity indeed doubtful and therefore, he is a fit case for premature retirement. Therefore, the Committee recommends that the official be retired prematurely as per FR 56 (i) with immediate effect by giving three months pay and allowances in lieu of three months notice."</i>

10. From the above, the learned Tribunal rightly observed that the only reference was to the punishment imposed upon the respondent in the year 2007, and that the other service records had not been



considered by the petitioner.

11. A Coordinate Bench of this Court in *Ajay Kumar Sharma v. The Commissioner, South Delhi Municipal Corporation & Anr.*, 2025:DHC:4466-DB, has culled out the principles governing FR 56 (j) as under:

*“22.5 From the above judgments, the following principles emerge, in the matter of compulsory retirement, where it is not awarded as a punishment:*

*(i) The scope of judicial review, in matters of compulsory retirement, is fairly limited.*

*(ii) Compulsory retirement involves no penal consequences.*

*(iii) At the same time, if unlimited discretion is permitted to the administration in the matter of passing orders of compulsory retirement, it would be the surest menace to public interest and must fail for unreasonable, arbitrariness and disguised dismissal. (iv) The exercise of power to compulsory retire an officer must be bona fide and to promote public interest.*

*(v) It is permissible to lift the veil in order to ascertain whether an order of compulsory retirement is based on any misconduct of the government servant and whether the order has been made bona fide without any oblique and extraneous purpose.*

*(vi) A bona fide order of compulsory retirement can be challenged only on the ground that the requisite opinion has not been informed, the decision is based on collateral factors or is arbitrary.*

*(vii) The court cannot sit in appeal over an order of compulsory retirement, but can interfere if it is satisfied that the order is passed mala fide, or is based on no evidence, or is arbitrary, in the sense that no reasonable person would form the requisite opinion in the given material.*

*(viii) The object of compulsory retirement, where it is not awarded as a punishment, aims*



*at weeding out dead wood to maintain efficiency and initiative in the service, and dispensing with the services of those whose integrity is doubtful so as to preserve purity in the administration.*

*(ix) If the order of compulsory retirement casts a stigma on the government servant or contains any statement casting aspersion on his conduct or character, it would be treated as an order of punishment, attracting Article 311(2) of the Constitution of India. If, however, the order of compulsory retirement refers only to an assessment of his work and does not cast an aspersion on his conduct or character, the order of compulsory retirement cannot be treated as an order of punishment. The test would be the manner in which a reasonable person would read or understand the order of compulsory retirement.*

*(x) FR 56(j) does not require any opportunity to show cause to be provided before an order of compulsory retirement is passed.*

*(xi) Before passing an order of compulsory retirement, the entire service record of the officer has to be taken into account.*

*(xii) The gradings in the ACRs of the officer are relevant. The performance of the officer in later years, including the gradings granted in later years, would be of greater relevance than those in earlier years. Where the ACRs continuously record the integrity of the officer as being “beyond doubt”, or grade him “outstanding” or “very good”, it is an important factor in favour of the officer, and would, in a given case, vitiate the order of compulsory retirement, unless it is shown that, between the last such entry and the passing of the order of compulsory retirement, there was sudden and unexplained deterioration in the performance of the officer.*

*(xiii) Uncommunicated adverse entries in the ACRs of the officer can also be taken into account before passing an order of compulsory retirement.*

*(xiv) Grant of promotion to an officer despite*



*adverse entries in his confidential record is a factor operating in favour of the officer. Promotion to a higher post notwithstanding adverse remarks result in the adverse remarks losing their sting.*

*(xv) The fact that the officer was allowed to cross the efficiency bar, or was granted promotion after the events which formed the basis of the order of compulsory retirement, is also a relevant consideration.*

*(xvi) The subjective satisfaction of the authority passing an order of compulsory retirement must be based on valid material.*

*(xvii) Compulsory retirement is not required to be by a speaking order*

*(xviii) The principle of audi alteram partem has no application in the case of compulsory retirement.”*

12. As held by the Coordinate Bench of this Court in **Ajay Kumar Sharma** (supra), before passing an order of compulsory retirement, the entire service record of the officer has to be taken into consideration, including the gradings in the ACRs which are relevant. The performance of the officer in the later years is of greater relevance than reliance on old and historical punishments. Once the ACRs continuously record the integrity of the officer as ‘Beyond Doubt’ and grade him as ‘Outstanding’ or ‘Very Good’, the order of compulsory retirement, if based on events that occurred much prior to the decision, may stand vitiated. The grant of promotion to an officer despite adverse entries in his confidential record is also a significant factor that must be taken into account.

13. The learned Tribunal, in its impugned order, also observes that the above stated important factors that must be taken into account



while taking a decision whether the employees is to be compulsorily retired from service, have not been taken into consideration while passing the order of compulsory retirement against the respondent. We quote from the impugned order of the learned Tribunal, as under:

*“8. It is evident that the only reference isto the punishment imposed upon the applicant in the year 2006. Barring that no other factor is mentioned. 9. Once the applicant was promoted, that too on the recommendations of the UPSC as recently as in the year 2017, we find it difficult to concur with the opinion expressed by the Review Committee. The Provision cannot be invoked just at the wish of the authorities. There must exist at least some material though not in the form of any concrete proof. Even if any remote indication exists, to suggest the lack of integrity on the part of the employee, the authority would be justified in invoking rule. However, in the absence of such a material, retiring an employee under that provision tends to become, a mechanism to get rid of an employee, otherwise then through disciplinary proceedings. 11. The case on hand is substantially different. Firstly nothing adverse was noticed against the applicant, after the punishment was imposed in 2006. Secondly there was not even a whisper about the lack of integrity, after the applicant was promoted to the post of Executive Engineer, be it on adhoc basis or regular basis. Therefore, the said judgement cannot apply to the facts of the present case.”*

14. Keeping in view the above, we do not find any infirmity in the Impugned Order passed by the learned Tribunal, and accordingly, the petition is dismissed.

15. At this stage, it may be noted that the learned counsel for the petitioner submits that the respondent may have accepted pensionary benefits pursuant to the impugned order of compulsory retirement. If



2025:DHC:7787-DB



that be so, the same shall be duly adjusted by the petitioner while giving effect to the directions issued by the learned Tribunal.

**NAVIN CHAWLA, J**

**MADHU JAIN, J**

**SEPTEMBER 2, 2025**  
ssc/RM/DG