



2025:DHC:8638-DB



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

Reserved on: 17.09.2025
Pronounced on: 26.09.2025

+ W.P.(C) 8402/2021

A K DIXIT

.....Petitioner

Through: Mr. Rajeev Sharma, Adv.

versus

COMMISSIONER NORTH DELHI MUNICIPAL
CORPORATIONRespondent

Through: Mr.Tushar Sannu, SC with
Mr.Parvin Bansal, Adv. for
MCD with Devesh Kumar Jha,
Section Officer, Mr.Sanjay
Kumar, ASO and Mr.Arun
Kumar, SSA.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed, challenging the Order dated 16.07.2021 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No.1090/2020, titled *Shri A.K. Dixit v. The Commissioner, North Delhi Municipal Corporation*, dismissing the O.A. filed by the



petitioner herein, wherein a challenge was made to the Order dated 31.10.2019 compulsorily retiring the petitioner from service, as also the Order dated 17.2.2020 rejecting his representation against the Order dated 31.10.2019.

2. The limited facts relevant for the purposes of the present petition are that, in the exercise of powers under FR 56(j) read with Rule 48 of the CCS (Pension) Rules, 1972, the respondent passed an Order dated 31.10.2019, compulsorily retiring the petitioner from service. A representation filed against the same was also rejected by the Order dated 17.02.2020, compelling the petitioner to file the above O.A.

3. The learned counsel for the petitioner submits that the learned Tribunal has failed to appreciate that although penalties were inflicted on the petitioner by Orders dated 01.02.2008, 22.10.2008 and 27.10.2011, however, thereafter the petitioner had been promoted to the post of Executive Engineer (Civil), on regular basis, on the recommendation of the UPSC, by an Order dated 08.06.2017, with effect from 28.12.2016, and also to the post of Superintending Engineer (Civil), on an *ad hoc* basis, vide Order dated 20.06.2017. He submits that after his promotion to the post of Superintending Engineer (Civil) no disciplinary proceedings have been initiated against the petitioner.

4. He further submits that the complete record of the ACRs of the petitioner have always been either 'Very Good' or 'Outstanding', and reflected his integrity as 'Beyond Doubt'.



5. He submits that the Reviewing Committee appears to have taken note of the departmental proceedings as also the police cases initiated against the petitioner, however, the fact remains that post his promotion in 2017, the petitioner was not involved in any such proceedings and also most of his prior proceedings had either been withdrawn, dropped, or ended in his exoneration or acquittal.

6. Placing reliance on the judgment of a Coordinate Bench of this Court in *Ajay Kumar Sharma v. The Commissioner, South Delhi Municipal Corporation & Anr.*, 2025:DHC:4466-DB, he submits that the Impugned Order compulsorily retiring the petitioner from service cannot be sustained and deserves to be set aside.

7. On the other hand, the learned counsel for the respondent submits that in the present case, the petitioner had fifteen departmental proceedings initiated against him, as also three police cases. He submits that the petitioner was also visited with major penalties in the years 2008 and 2011. He submits that taking the same into account, the Screening Committee found a fit case to be made out for compulsorily retiring the petitioner from service.

8. Placing reliance on the judgments of the Supreme Court in *Baikuntha Nath Das & Anr. v. Chief District Medical Officer, Baripada & Anr.*, (1992) 2 SCC 299; *Pyare Mohan Lal v. State of Jharkhand*, (2010) 10 SCC 693 and *Punjab State Power Corporation Ltd. & Ors. v. Hari Kishan Verma*, (2015) 13 SCC 156, he submits that the power to compulsorily retire a government servant in terms of the Service Rules is absolute, provided the concerned Authority forms



a *bona fide* opinion of the same in public interest.

9. He submits that mere grant of a promotion to the petitioner cannot be a ground to set aside the decision of the concerned Authority of the respondent to compulsorily retire such government servant, specially where such government servant has already been visited with major penalties on earlier occasions. He submits that in the present case, the decision to compulsorily retire the petitioner was justified considering the major penalties imposed upon him in the years 2008 and 2011. He submits that the opinion formed by the concerned Authority of the respondent cannot be interfered with by this Court.

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

11. In ***Ajay Kumar Sharma*** (supra), a Coordinate Bench of this Court, having examined the law applicable to the cases of compulsory retirement under FR 56(j), has culled out the governing principles as under:

“22.5 The Takeaway

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. In the present case, though it is not denied that the petitioner was visited with major penalties in the years 2008 and 2011, it also remains undisputed that he was later promoted to the post of Executive Engineer (Civil), on regular basis, on the recommendation of the UPSC, by an Order dated 08.06.2017, with effect from 28.12.2016. Though the promotion of the petitioner to the post of Executive Engineer (Civil) for the vacancy year 2008-09 to 2014-15 was kept in sealed cover by the UPSC due to the pendency of two departmental proceedings and three police cases, the Vigilance Department of the respondent, by letter dated 18.05.2017, intimated that the said proceedings had either been dropped or the petitioner had been acquitted/exonerated in the same. It was further informed by the Accounts Officer that the petitioner was not running under any currency of punishment. Consequently, the petitioner was granted promotion to the post of Executive Engineer (Civil) on regular basis with effect from the date his junior was promoted, that is, 28.12.2016.

13. Thereafter, the petitioner was also promoted to the post of Superintending Engineer (Civil), on an *ad hoc* basis, vide Order dated 20.06.2017. Post his promotion in 2017, the petitioner was also not involved in any such departmental or police proceedings.

14. Further, his ACR gradings for the last five years were also either 'Very Good' or 'Outstanding' and his integrity was reported as 'Beyond Doubt'.

15. As held 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 grading in the ACRs. 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.

16. What is most important in the present case is that apart from the major penalties imposed on the petitioner in the years 2008 and 2011, there was nothing adverse against the petitioner since then till the date of his compulsory retirement. In fact, as noted hereinabove, in the said period he had been promoted; his ACRs were either 'Very Good' or 'Outstanding'; and his integrity was reported as 'Beyond Doubt' and he had been granted two promotions, as mentioned herein above. These factors should also have been considered by the Screening/Reviewing Authority before taking the decision to compulsorily retire the petitioner.

17. Given the above factors, we are unable to sustain the Impugned Order passed by the learned Tribunal, and equally are unable to sustain the Order dated 31.10.2019 compulsorily retiring the petitioner from service as also the Order dated 17.02.2020 rejecting the representation of the petitioner thereagainst.



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18. We are informed that the petitioner has reached the age of superannuation. Accordingly, we direct that the petitioner shall be entitled only to the consequential reliefs in accordance with the law, including deemed reinstatement from the date of the order of compulsory retirement, together with the benefit of notional fixation of pay and other consequential benefits, but without arrears of pay.

19. The consequential order shall be passed by the respondent within a period of four weeks from today and the benefits be released to the petitioner within the same period.

20. The petition is allowed in the above terms.

NAVIN CHAWLA, J

MADHU JAIN, J

SEPTEMBER 26, 2025/Arya/SJ