



2025:DHC:9385-DB



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

***Reserved on: 09.10.2025***  
***Pronounced on: 28.10.2025***

+ **W.P.(C) 8399/2021**

J. D. ATKAAN

....Petitioner

Through: Mr.Rajeev Sharma, Adv.

versus

COMMISSIONER NORTH DELHI MUNICIPAL  
CORPORATION

...Respondent

Through: Mr.Tushar Sannu, SC for MCD  
with Mr.Praveen Bansal, Adv

**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 16.06.2021 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No.504/2020, titled *Shri J.D. Atkaan v. The Commissioner, North Delhi Municipal Corporation*, whereby the learned Tribunal dismissed the said O.A. filed by the petitioner herein.

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





2025:DHC:9385-DB



major penalty was imposed on a government servant, the Internal Committee was proposing his name for compulsory retirement. He submits that this is contrary to the principles of law governing compulsory retirement as envisaged under FR 56(j), inasmuch as, before passing an order of compulsory retirement, the entire service record of the officer has to be taken into consideration. He submits that the Reviewing Committee appears to have taken note of the departmental proceedings initiated against the petitioner and the penalties imposed on him between the years 2006 and 2014, however, all these punishments pertained to chargesheets issued between the years 2004 and 2009, and post the year 2009, the petitioner was not involved in any such proceedings.

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, seven departmental proceedings were initiated against the petitioner. He submits that the petitioner was also visited with six penalties between the years 2006 and 2014. He submits that a regular DPC for promotion to the post of Executive Engineer (Civil) was held by the UPSC on 26.12.2016, wherein the case of the petitioner was considered and recommended, however, since the petitioner was under the currency of punishment upto



2025:DHC:9385-DB



30.06.2017, the recommendation of the DPC with respect to the petitioner could not be notified. 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 on the same in public interest.

9. He submits that the 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 a government servant, especially where such government servant has already been visited with penalties on earlier occasions. He submits that in the present case, the decision to compulsorily retire the petitioner was justified, considering the six penalties imposed upon him between the years 2006 and 2014. He submits that the opinion formed by the concerned Authority of the respondent is *bona fide* and 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





2025:DHC:9385-DB



*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*



2025:DHC:9385-DB



*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 six penalties between the years 2006 and 2014, it also remains undisputed that these punishments arose from chargesheets issued between the years 2004 and 2009, and that post the year 2009, the petitioner was not involved in any departmental or police proceedings. Further, the petitioner was also promoted to the post of Executive Engineer (Civil), on regular basis, on the recommendations of the UPSC, with effect from 01.07.2017. In fact, thereafter, the petitioner was also assigned the additional charge of Project Coordinating Officer for two projects; was appointed as the Nodal Officer on behalf of the North Delhi Municipal Corporation *vide* Orders dated 05.09.2018 and 06.06.2018, in compliance with the directions of the Supreme Court, and was made the Head of a Special



2025:DHC:9385-DB



Task Force constituted for the North Delhi Municipal Corporation *vide* Order dated 08.01.2019. Additionally, the ACRs/APARs of the petitioner for the period from the year 1998-99 to 2018-19 were consistently graded as either 'Very Good' or 'Outstanding', and reflected his integrity as 'Beyond Doubt'.

13. 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', an 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 to be considered.

14. The decision of the Screening Committee to recommend compulsory retirement of officers merely because, at some point in their career, they had been visited with a major penalty, without taking into account other relevant performance parameters, is therefore, contrary to the law and not sustainable.

15. Given the above factors, we are unable to sustain the Impugned Order passed by the learned Tribunal, and are equally unable to sustain the Order dated 31.10.2019, compulsorily retiring the petitioner from service, as well as the Order dated 17.02.2020

