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

Date of Decision: 3rd September, 2026.

\# **CNR No. DLHC010311012023**

\+ W.P.(C) 10610/2023

RAJEEV KUMAR MISHRA .....Petitioner

Through: Mr. Sanjoy Ghose, Senior Advocate with Mr. Akshat Hansaria, Advocate.

versus

UNION OF INDIA AND ANR .....Respondents

Through: Mr. Himanshu Pathak, SPC with Mr. Mohit Gupta, Advocate for R-1.
Mr. Manoj, Ms. Aparna Sinha, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral)

1. The Petitioner was prematurely retired from the Food Corporation of India[1] by order dated 17th April 2023 under Regulation 22(2) of the Food Corporation of India (Staff) Regulations, 1971[2]. The decision followed his implication in a CBI case alleging corruption. The controversy is whether FCI invoked Regulation 22(2) for its intended purpose to assess whether his continued retention was consistent with public interest, or whether it proceeded on the corruption allegation as though it stood established and used premature retirement to act upon that misconduct.

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[1] "FCI"
[2] "the Regulations"

Factual Background

2. The Petitioner joined FCI in January 2001 as a Management Trainee. Over the years, he served in Assam, Bathinda/Amritsar, the Silo Division at Headquarters and thereafter in the Procurement Division. While posted as Area Manager, Bathinda/Amritsar between 2012 and 2015, his responsibilities included procurement, quality control of custom-milled rice and transit losses. He was promoted as Deputy General Manager (General) thereafter.

3. The Petitioner's service record was, for the most part, favourable. His later APARs are predominantly "Outstanding". For the period from 1st July, 2021 to 31st December, 2021, his integrity was recorded as "Sound", his overall grading was "Outstanding", and the reporting officer described him as "an asset to the organisation". The other APARs placed on record are also broadly favourable and contain positive assessments of his competence, efficiency, experience and performance.

4. There had, however, been an earlier disciplinary proceeding. A major-penalty charge-sheet was issued to the Petitioner in 2016 and a penalty was imposed on 20th July, 2018. That penalty was later set aside by the Reviewing Authority, and the proceedings ultimately ended in his favour in 2022.

5. The Petitioner attained the age of 50 in January 2021. His case is that a periodic review under Regulation 22(2) was undertaken at that stage and he was found fit for retention in service. Indeed, FCI does not dispute that he had earlier been reviewed and retained; in fact, its subsequent communication of January 2023 expressly contemplated a fresh review even of officers who had already been reviewed.

The Kurali Episode

6. The events which later assumed significance began in 2022, in connection with certain rice stocks stored at FSD/CWC Kurali in Punjab.

7. FCI teams inspected the stocks in May and June 2022 and recorded, *inter alia*, bag-to-bag variation, inferior-quality rice and stocks found to be beyond the rejection limit.[3] The inspection record also noted that bags containing inferior-quality rice appeared to have been deliberately placed within certain stacks. Headquarters thereafter directed replacement of the affected stocks at the risk and cost of the concerned millers/agencies.

8. The Petitioner was transferred to the Punjab Regional Office on 29th June, 2022 and was assigned Quality Control, Personnel and Procurement on 10th August, 2022. On 29th August, 2022, a communication was sent to the Director, Department of Food and Civil Supplies, Government of Punjab, referring to the inspection material and recommending action against certain rice mills, including blacklisting and replacement of the BRL stocks with fresh Fair Average Quality stocks.

9. The concerned millers thereafter complained against the action taken by FCI. This led to a further examination of the matter and to a disagreement between the Quality Control establishment and the S&R team regarding the inspection and sampling of the stocks. The matter then reached the Punjab and Haryana High Court, which, by order dated 9th November, 2022, directed independent sampling by FSSAI. The millers subsequently offered to replace the BRL stocks, and the proceedings were disposed of on that basis.

10. The Petitioner relies on this sequence to contend that the stand taken

by him against the concerned millers, and the differences which later emerged between the Quality Control and S&R establishments, generated hostility towards him and ultimately led to his false implication in the CBI case. That allegation is disputed and need not be resolved here. The legality of the impugned action turns on the material before the Review Committee and the use made of it under Regulation 22(2), not on the Petitioner's allegation of conspiracy.

Events immediately preceding the CBI case

11. On 23rd December, 2022, the Petitioner participated in an inspection at FSD Kurali during which samples were collected, *inter alia*, from rice supplied by M/s Guru Kripa Rice & Agro Industries. The samples were analysed at the Regional Laboratory on 30th December, 2022 and were passed; the Petitioner submitted the inspection report on 4th January, 2023.

12. On 10th January, 2023, the CBI registered FIR No. RC2162023A0001 on source information concerning an alleged conspiracy between FCI officers and private millers involving illegal gratification in connection with FCI operations. Insofar as the Petitioner was concerned, the information was that Ravinder Singh Khera of Guru Kripa Rice & Agro Industries was likely to deliver ₹50,000 to him at the FCI Regional Office in Chandigarh. The Petitioner was then serving as DGM, Quality Control and Personnel.

13. The CBI case, as set out in the charge-sheet, is that Khera was intercepted after his visit to the FCI Regional Office and stated that he had paid ₹50,000 to the Petitioner for favour in official work. The CBI thereafter returned to the office and alleges that the amount was recovered from an office bag associated with the Petitioner. The investigation also relied upon

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[3] "BRL"

the visitor register, communications between Khera and the Petitioner, and other documentary and electronic material.

14. The Petitioner was arrested on 11th January, 2023. FCI thereafter passed an order dated 19th January, 2023 deeming him to be under suspension with effect from the date of his detention under Regulation 66.

15. These remain allegations and conclusions of the investigating agency. They have not been adjudicated here, and the Court is not called upon in this writ petition to pronounce upon the Petitioner's guilt or innocence in the criminal prosecution.

The decision to undertake a special review

16. The CBI action prompted an immediate response within FCI. On 14th January, 2023, a meeting was convened under the chairmanship of the Secretary (Food). The minutes begin by referring to the "recent unfortunate incidents", the need for corrective measures, and the Government's policy of zero tolerance towards corruption.

17. Two of the directions emerging from that meeting are particularly relevant to the present controversy. The minutes recorded:

> *"The review under Staff (Regulations) 22(2) should be conducted immediately for all those who are involved in the recent incidents and completed 50 years of service."*

For officers below 50, the direction was:

> *"Those who are below 50 years, cases be initiated against them under Regulation-58 of FCI (Staff) Regulations, 1971 as soon as the CBI report is received."*

18. Two days later, on 16th January, 2023, FCI issued a general communication under the heading "Periodic Review of Corporation Employees for strengthening of administration under Regulation 22(2)". The

exercise was not confined to officers named in the CBI case. It extended to all serving Category I, II and III officers/officials who had completed, or would complete, 50 years of age by 30th June, 2023, and expressly stated:

> *"This review is irrespective of the facts whether these employees have been reviewed earlier or not.*
> *In the changed scenario onus lies on the part of Authority competent to undertake the said review and to conduct the same in fair manner…"*

The Review Committee of 6th March, 2023

19. The Petitioner's case was thereafter considered at a special meeting of the Review Committee on 6th March, 2023. The Committee comprised Bijay Kumar Singh, Executive Director (Personnel), Ravinder Pal Singh, Executive Director (West), and Piush Kumar Gupta, Executive Director (Vigilance)/CVO. The minutes describe the purpose of the meeting as follows:

> *"The special meeting of the Review Committee held on 06.03.2023… [was] to review the cases of Category-I officers who have already attained the age of 50 years and involved in the case registered by the CBI in RC No. RC2162023A0001 dated 10.01.2023."*

20. The Committee further recorded that the Petitioner's "service record, APAR status and vigilance profile" had been scrutinised under Regulation 22(2) and FCI's Circular dated 9th July, 2021.

21. The minutes then refer to the FIR, the Petitioner's arrest and the CBI operation which, according to the Committee, had "led to a trap" involving the Petitioner and a rice miller in a ₹50,000 bribery case. They also advert to the nature of his responsibilities and note that, at the relevant time, the Petitioner was looking after Quality Control, Procurement and Personnel in Punjab Region, described by the Committee as the highest procuring Region in the country.

22. The Committee did not, however, confine itself to considering the effect of pendency or gravity of the CBI allegations. It explicitly stated:

> *"Sh Rajeev Kumar Mishra… used his position for personal gains…"*

It then referred to:

> *"Such an act of acceptance of bribe by a public servant in connivance with rice millers…"*

and concluded:

> *"the officer have committed gross misconduct which casts serious doubt on his integrity and reputation."*

23. The Committee further stated that the Petitioner had "maligned the image of the Corporation by involving himself in corrupt activities and worked with ulterior motives". It concluded that his continuance was not in public interest and that such cases should be dealt with "in strictest manner to set an example for the other public servants".

24. The Committee then referred to the FCI Circular dated 9th July, 2021, including the criterion that employees whose integrity is doubtful should be retired, and relied upon ***S. Ramachandra Raju v State of Orissa***[4]. It emphasised that General Administration officers possessed extensive administrative, discretionary and financial powers, referred to FCI's responsibilities under the National Food Security Act, and concluded that the Petitioner's "conduct and reputation" established that he was an officer of doubtful integrity whose continuance was detrimental to public interest.

25. One point of chronology should remain clear. The Review Committee met on 6th March, 2023. The CBI charge-sheet was filed on 11th March, 2023. Thus, while the Committee was aware of the FIR, arrest and alleged trap, the detailed charge-sheet narrative referred to earlier was formally

[4] AIR 1995 SUPREME COURT 111

placed before the criminal court only five days after the Review Committee's decision. The record before the Court does not show that the entire subsequent charge-sheet material was with the Committee when it met on 6th March.

Premature retirement and prosecution sanction

26. By an order dated 17th April, 2023, the Managing Director prematurely retired the Petitioner under Regulation 22(2). The order, unlike the minutes of the Review Committee, makes no reference to the CBI allegations or to any misconduct. It simply records:

> *"the undersigned is of the opinion that it is in the interest of the Corporation and public interest in general to retire Shri Rajeev Kumar Mishra…"*

27. The Petitioner was accordingly retired with effect from the afternoon of 18th April, 2023, with three months' pay and allowances in lieu of notice.

28. On 18th April, 2023, the Managing Director also accorded sanction under Section 19 of the Prevention of Corruption Act for the Petitioner's prosecution.

29. The Petitioner was granted bail by the Punjab and Haryana High Court on 26th April, 2023 and was released from judicial custody on the night of 27th April, 2023.

Representation against retirement

30. On 17th May, 2023, the Petitioner submitted a detailed representation against his premature retirement. He relied upon his service record, his earlier retention under Regulation 22(2), the absence of adverse integrity entries, his recent APARs and the Kurali episode. He also contended that Regulation 22(2) had been used punitively and sought reconsideration of the

retirement order.

31. The Representation Committee considered the matter in meetings held on 9th and 13th June, 2023, and concluded as follows:

> *"The Representation Committee has observed that the Petitioner has mainly stated the occurrence of Kurali episode under the DO Chandigarh. The Committee is of the view that the observations recorded by the Review Committee holds good which is based on doubtful integrity."*

32. On 6th July, 2023, the Managing Director rejected the representation after recording that it had been considered by the Representation Committee and that the report had been perused. No further reasons were set out in the order.

The Petitioner's case

33. The Petitioner contends that Regulation 22(2), a non-punitive power of premature retirement in public interest, was invoked to visit him with the consequences of alleged misconduct without recourse to disciplinary proceedings.

34. The Petitioner also relies on his service record. His APARs were predominantly "Outstanding", with no adverse integrity entry; he had earlier been reviewed under Regulation 22(2) and retained in service. His latest assessment recorded his integrity as "Sound" and described him as "an asset to the organisation".

35. The Petitioner next refers to the Kurali episode. According to him, the irregularities concerning BRL/substandard rice had surfaced before he assumed charge of Quality Control in Punjab. He states that, thereafter, he recommended action against the concerned millers and defended FCI's position before the Punjab and Haryana High Court. He alleges that these actions led to hostility from certain millers and officers of the S&R Division

and ultimately to his victimisation.

36. As regards the CBI case, the Petitioner submits that the mere registration of an FIR or implication in a criminal case does not establish guilt. In support, he relies on ***State of Gujarat v. Suryakant Chunilal Shah***[5]. He points out that, when the Review Committee met, the allegations remained unadjudicated and the detailed CBI charge-sheet had not yet been filed. The CBI material could therefore not be treated as proof that he had accepted a bribe or engaged in corruption.

37. The Petitioner places particular emphasis on the deliberations recorded in the minutes of the Review Committee. He submits that the Committee did not merely treat the CBI allegations as material bearing on his integrity. It proceeded on the footing that the alleged misconduct stood established and invoked Regulation 22(2) to visit him with its consequences. According to him, the exercise was therefore punitive in substance, notwithstanding the form of the retirement order.

38. The Petitioner also relies on the minutes of the meeting held on 14th January, 2023. He points out that officers above 50 years of age who were involved in the CBI case were to be reviewed under Regulation 22(2), whereas those below 50 were to face proceedings under Regulation 58. His submission is that the same allegations were therefore dealt with differently based only on age: premature retirement for one group and disciplinary proceedings for the other.

39. He further relies on FCI's Circular, which requires consideration of the entire service record and particular care where an officer has earlier been reviewed and retained. He submits that, although the Committee records that

his service record and APARs were scrutinised, its reasons do not engage with his "Outstanding" APARs, clean integrity profile or the earlier decision to retain him in service.

40. The Petitioner also alleges selective treatment, pointing out that Sudeep Singh and H.K. Jain, who were named in the same FIR, were not prematurely retired. He further submits that his representation received no independent consideration, the Representation Committee merely recording that the earlier conclusion of doubtful integrity "holds good".

FCI's case

41. FCI's answer is that Regulation 22(2) is intended precisely to enable the Corporation to act in public interest without first having to establish misconduct in disciplinary or criminal proceedings.

42. It submits that the provision confers a wide power upon the Appropriate Authority to retire an employee whose continued retention is considered against public interest. Such retirement is neither punitive nor stigmatic, does not require a prior show-cause notice, and is open to judicial review only on limited grounds such as mala fides, arbitrariness, perversity or absence of relevant material. Reliance is placed on ***Union of India v Col. J.N. Sinha and anr.,***[6] ***Baikuntha Nath Das v. District Medical Officer,***[7] and ***K. Kandaswamy v. Union of India.***[8]

43. FCI next submits that the decision did not rest merely on registration of the FIR. It relies on the CBI operation, the alleged statement of the private miller that ₹50,000 had been paid to the Petitioner, the CCTV

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[5] (1999) 1 SCC 529
[6] (1970) 2 SCC 458
[7] (1992) 2 SCC 299
[8] (1995) 6 SCC 162

footage and visitor register, recovery of the amount, and the oral, documentary and electronic material gathered during investigation. The Petitioner had also been arrested and suspended. According to FCI, this constituted concrete and serious material from which any reasonable employer could entertain a genuine doubt regarding integrity of an employee.

44. FCI also places considerable emphasis on the nature of the Petitioner's post. He was serving as DGM dealing with Quality Control, Procurement and Personnel in Punjab, which FCI describes as its highest procuring Region. Officers of his cadre exercise substantial administrative, discretionary and financial powers, while the Corporation itself performs important functions under the National Food Security Act. It is therefore submitted that integrity in such a position assumes particular significance in assessing public interest.

45. The Corporation further relies on its Circular dated 9th July, 2021. Point 7 permits a fresh review of an officer earlier retained where changed circumstances arise, while Point 10(i) contemplates premature retirement of employees whose integrity is doubtful. FCI therefore submits that the favourable review of 2021 could not insulate the Petitioner from reconsideration after the events of January 2023.

46. FCI also disputes that the Petitioner was singled out. Following the January 2023 events, it submits the exercise was broadened beyond the persons named in the FIR: about 320 Category-I officers were reviewed and 21 were prematurely retired. Thus, the exercise was part of a wider institutional review triggered by changed circumstances and not an individually engineered removal of the Petitioner.

47. As regards the Petitioner's service record, FCI submits that his favourable APARs could not be viewed in isolation from the subsequent material bearing upon his integrity. The Committee had expressly recorded that it considered his service record, APAR status and vigilance profile. According to FCI, it was therefore open to the Committee to give weight to the later integrity-related events and material, particularly having regard to the sensitivity of the post held by the Petitioner.

48. FCI also relies upon *Ramachandra Raju* and *Kandaswamy* for the proposition that there may be circumstances in which material concerning integrity is sufficient to conclude that further retention is contrary to public interest even though it may not yet be sufficient to sustain punitive disciplinary action. In other words, "not yet proved for punishment" does not mean "irrelevant for public-interest retention."

49. Finally, FCI submits that the order of retirement is non-stigmatic on its face: it records only the Managing Director's opinion that retirement is in the interest of the Corporation and the public, grants three months' pay in lieu of notice, and contains no finding of corruption or misconduct. FCI therefore contends that, within the limited scope of judicial review applicable to compulsory retirement, the Court cannot substitute its own assessment of the material or examine its sufficiency as an appellate forum.

Analysis

50. The short question is whether the Petitioner's premature retirement was a *bona fide* exercise of the power under Regulation 22(2), based on an assessment of whether his continued retention in service was consistent with public interest, or whether the provision was in substance used to visit him with the consequences of alleged misconduct that had yet to be established.

51. There is no difficulty in accepting that the CBI material furnished sufficient basis for FCI to reopen the Petitioner's case and assess whether his continued retention was consistent with public interest. Nor was FCI required to await the conclusion of the criminal proceedings before doing so. The difficulty arises at the next stage. If, instead of treating the allegations as material bearing upon integrity and future suitability, the authority proceeds on the footing that the misconduct stands established and uses Regulation 22(2) to visit the employee with its consequences, the exercise assumes a punitive character.

52. Regulation 22(2)(A)(i) of the FCI (Staff) Regulations, 1971 stipulates as follows:

> ***"22. Superannuation and retirement:***
> ***(2)(A)(i)*** *Notwithstanding anything contained in this Regulation, the Appropriate Authority shall, if it is of the opinion that it is in the public interest so to do, have the absolute right to retire any Corporation employee by giving him notice of not less than three months in writing or three months' pay and allowances in lieu of such notice:*
> ***(a)*** *If he is, in Category I & II service or post in a substantive, quasi-permanent or temporary capacity and had entered Corporation service before attaining the age of 35 years, after he has attained the age of 50 years;*
> ***(b)*** *In any other case after he has attained the age of fifty-five years."*

53. The expression "public interest" lies at the heart of the provision. Neither Regulation 22(2) nor FCI's Circular dated 9th July, 2021 define it exhaustively. The power conferred is undoubtedly wide, but its exercise depends upon the Appropriate Authority forming the opinion that premature retirement is warranted in public interest. Public interest is not merely the source of the power; it is the limit on its exercise. The Circular proceeds on the same footing, requiring periodic review to determine whether an employee should be retained or prematurely retired "in public interest".

54. *Col. J.N. Sinha* is important for what it says about public interest. The Court recognised that an authority may legitimately prefer a more efficient officer even where the incumbent cannot be described as inefficient, and that some key posts may require persons of undoubted ability and integrity. ***Baldev Raj Chadha v. Union of India***[9] similarly emphasises that the power of compulsory retirement must be exercised *bona fide* and for the purpose of promoting public interest. The existence of the power does not exclude judicial scrutiny where the decision is founded upon irrelevant or arbitrary considerations. The later synthesis in ***Pramod Kumar Bajaj v. Union of India***[10] treats public interest as a condition upon the exercise of the otherwise wide power of premature retirement.

55. FCI is right that judicial review in this area is limited. *J.N. Sinha*, *Baikuntha Nath Das* and the other authorities relied upon by it make that clear. But limited review does not mean that the decision is insulated from review. The Court may still examine whether the power was exercised *bona fide*, on relevant material and for the purpose for which it was conferred. *Mala fides*, arbitrariness, absence of material and use of the power for a collateral purpose therefore remain open to judicial scrutiny.

56. The distinction may be put simply. Premature retirement in public interest looks ahead; punishment looks back. Regulation 22 asks whether, having regard to the employee's service record, integrity, reputation and any material that has since emerged, his continued retention is contrary to public interest. A punitive inquiry asks a different question: whether the employee committed the alleged misconduct and should, for that reason, be visited

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[9] (1980) 4 SCC 321
[10] (2023) 11 SCC 466

with its consequences. The first inquiry belongs to Regulation 22. The second belongs to the disciplinary process.

57. This is not merely a matter of formulation. ***Allahabad Bank Officers' Association v. Allahabad Bank***[11] draws the distinction between the two powers. Misconduct and inefficiency may enter into consideration in a case of compulsory retirement, but they ordinarily furnish the background to the assessment of continued retention; in dismissal or removal, they form the basis of the action. ***State of Gujarat v. Umedbhai M. Patel***[12] places two further guardrails around the power: compulsory retirement cannot be used as a shortcut to avoid a departmental enquiry where that course is more appropriate, and it cannot itself be imposed as a punitive measure. *Captain Pramod Kumar Bajaj* brings these strands together; ***Nisha Priya Bhatia v. Union of India***,[13] noticed there, expresses the "real test" as whether retirement was prompted by concern about suitability or was, in substance, punishment for misconduct.

58. That is the governing principle for the present case.

59. "Doubtful integrity" is not synonymous with "proved corruption". An authority exercising a non-punitive power of premature retirement is not required to await a criminal conviction, nor must the material before it satisfy the standard of proof applicable at a criminal trial. ***M.S. Bindra v. Union of India***[14] is instructive in this regard. It cautions that the doubt cannot rest upon a mere hunch; it must be one which a reasonable person could consciously entertain on the material available. At the same time, the

[11] (1996) 4 SCC 504
[12] (2001) 3 SCC 314
[13] (2020) 13 SCC 56
[14] (1998) 7 SCC 310

authority cannot shut its eyes to the estimation in which the officer was held in the recent past. ***State of Orissa v. Ram Chandra Das***[15] further recognises that where the Government considers an employee to be of doubtful integrity, the fact that there may not be sufficient evidence to take disciplinary action does not preclude the Government from exercising the power of compulsory retirement in public interest. The decision nevertheless requires the entire service record of the employee, including the latest reports, to be considered before a decision to compulsorily retire him is taken.

60. Nor does *Suryakant Chunilal Shah*, on which the Petitioner places considerable reliance, hold that an employee cannot be compulsorily retired merely because the criminal proceedings against him have not yet culminated in a finding of guilt. It certainly holds that involvement in a criminal case does not amount to guilt and that an employee cannot be deprived of his livelihood merely because a criminal prosecution is pending. But the Court expressly added that whether such involvement constitutes relevant material for compulsory retirement depends upon the circumstances of the case and the nature of the offence alleged. The significance of that qualification cannot be lost in the present case.

61. Here, the allegation was undoubtedly serious. At the relevant time, the Petitioner was DGM looking after Quality Control, Procurement and Personnel in Punjab, which the Committee described as FCI's highest procuring Region. The Committee was therefore entitled to place particular weight on integrity, having regard to the administrative, discretionary and financial powers attached to the post.

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[15] (1996) 5 SCC 331

62. The decisive question, however, is how the Review Committee used the CBI material. It could legitimately treat the allegations as relevant to the Petitioner's integrity and continued suitability. It could not, under Regulation 22(2), treat the alleged misconduct as established.

63. The Court is not concerned with the truth of the CBI allegations. The narrower question is whether the Review Committee assessed the Petitioner's continued suitability in public interest, or treated the alleged misconduct as established and acted upon it.

64. The language employed by the Review Committee is significant. It records that the Petitioner "used his position for personal gains"; refers to "such an act of acceptance of bribe"; finds that he "committed gross misconduct"; states that he had involved himself in "corrupt activities" and acted with "ulterior motives"; and concludes that such cases must be dealt with in the "strictest manner to set an example". Although these are not expressions appearing in the formal order of retirement, they form part of the reasoning by which the Review Committee arrived at its recommendation.

65. The expression "to set an example" is particularly revealing. Deterrence of others is ordinarily a purpose of punishment. It does not answer the prospective question whether this officer's continued retention is administratively undesirable. The expression reinforces that the Committee was acting upon the conduct attributed to the Petitioner, rather than assessing his future suitability for retention.

66. *Allahabad Bank Officers' Association* draws the distinction between misconduct which merely furnishes the background to compulsory retirement and misconduct which forms the very basis of punitive action.

Umedbhai M. Patel makes clear that compulsory retirement cannot be used as a punitive measure, while *Nisha Priya Bhatia*, identifies the relevant inquiry as whether the retirement was occasioned by concern regarding unsuitability or was imposed as punishment for misconduct.

67. The Review Committee was entitled to treat that material as raising a serious concern regarding the Petitioner's integrity and continued suitability. But the Committee went substantially further. It proceeded on the footing that the Petitioner had accepted a bribe, used his position for personal gain, committed gross misconduct and engaged in corrupt activity. It emphasised upon the consequences of misconduct treating them as established or proved.

68. This does not mean that every reference to misconduct makes an order of premature retirement punitive. FCI is right on that. Adverse conduct, disciplinary history and material bearing upon integrity can all be relevant to an assessment under Regulation 22(2). The distinction lies in the use to which the material is put. It may inform the assessment of continued suitability. What the authority cannot do under Regulation 22(2) is treat an unadjudicated allegation as proved and proceed against the employee on that basis.

69. FCI's reliance upon ***Punjab State Power Corporation Ltd. v. Hari Kishan Verma*,**[16] deserves a closer look. The employee there was being considered for retention beyond the age of 55 years. The Committee examined his entire service record, including disciplinary proceedings and punishments extending over several years, his personal record, reputation and ACRs. The order referred to the penalties of censure and stoppage of

increments, recorded that his ACRs and disciplinary record disclosed poor performance, and described him as “inefficient” and “not fit for retention”. It also referred to pending disciplinary cases, but expressly left their outcome open. The Supreme Court nevertheless held that the order was not punitive. The reason is important. The expressions “inefficiency” and “not fit” were read in the setting of an assessment based on the employee’s service record as a whole. His reputation was linked to his ACRs and poor performance; the valid punishments had been taken into account; and the ACRs had been critically scrutinised. In that context, those expressions were conclusions regarding his suitability for further retention, not findings adjudicating the misconduct alleged in the pending proceedings.

70. The manner in which the Supreme Court distinguished ***R.K. Panjetha v. Haryana Vidyut Prasaran Nigam Ltd.***,[17] is directly relevant here. In *Panjetha*, the Committee did not merely notice that a charge-sheet was pending. It proceeded to record that the officer had violated instructions by issuing 217 work orders involving more than ₹20 lakh, had engaged private contractors contrary to the governing instructions, and had obtained excessive measurements through technical subordinates. The Supreme Court noted that the order thereby placed responsibility upon the officer for the alleged violations, excess payments and measurements. Those allegations, it said, “graphically reveal[ed]” the violations, and it was for that reason that the order bore a stigmatic character. The distinction drawn in *Hari Kishan Verma* is therefore not between an order which refers to misconduct and one which does not. It lies in what the authority does with that material. Past

[16] (2015) 13 SCC 156
[17] (2002) 10 SCC 590

misconduct, penalties, reputation and performance may legitimately form part of an overall assessment of continued suitability. But where the authority takes an allegation which is yet to be adjudicated, considers it as having occurred and fixes responsibility upon the employee for the misconduct itself, the exercise assumes a different complexion.

71. The present case lies much closer to *Panjetha* than to *Hari Kishan Verma*. The Review Committee did not merely record that the Petitioner had been implicated in a CBI case, that an alleged trap involving ₹50,000 had taken place, and that these circumstances generated a serious concern regarding his integrity. It adopted the allegation itself as an established fact.

72. *S. Ramachandra Raju* and *K. Kandaswamy* assist FCI, but only to a point. They recognise that material bearing on an officer's integrity may justify compulsory retirement even where it may not be sufficient to sustain punitive disciplinary action. That much is not in dispute. But there remains a difference between saying that material concerning alleged corruption gives rise to a *bona fide* doubt about an officer's integrity and saying, in proceedings which are not disciplinary, that he accepted a bribe, committed gross misconduct and engaged in corrupt activity. The former bears on whether he should continue in service. The latter amounts to a finding of misconduct.

73. The Representation Committee does not cure the fallacy in the Review Committee's reasoning. The Petitioner's representation referred to his earlier review, service and integrity record, the Kurali circumstances and, importantly, his objection that Regulation 22(2) had been used punitively. The Representation Committee substantially recorded that he had "mainly stated the occurrence of Kurali episode" and concluded that the observations

of the Review Committee "holds good which is based on doubtful integrity". The brevity of that consideration is not, by itself, a ground to invalidate the decision. The difficulty is that it simply affirmed the earlier conclusion without revisiting the Petitioner's objection that the alleged misconduct had been treated as established.

Where, then, does the balance lie?

74. The conclusion, therefore, follows from the manner in which the Review Committee dealt with the allegations. The Committee has, *ex-facie*, in an exercise under Regulation 22(2), treated the alleged conduct as misconduct attributable to the Petitioner and recommended adverse action on that footing. That gives the impugned exercise its punitive character.

75. The sensitive nature of the Petitioner's functions does not dilute that conclusion. If anything, it explains why a genuine concern regarding integrity could carry exceptional weight in his case. The Petitioner was entrusted with Quality Control, Procurement and Personnel functions in Punjab, described in the record as FCI's highest procuring Region. FCI is certainly entitled to insist upon a high standard of integrity from an officer holding such responsibilities. But the importance of the public interest involved cannot change the legal character of the power being exercised. Regulation 22 protects the administration against the continued retention of an employee whose continuance is no longer in public interest. It is not an abbreviated process for determining whether an allegation of corruption is true and imposing the consequences which follow from that finding.

76. FCI's own stand in the counter affidavit brings the difficulty into sharper focus. It has described premature retirement under Regulation 22(2) as "beneficial" to the Petitioner because it "obliterates the stigma"

associated with termination and protects his retiral benefits. The Court does not treat that pleading as proof of the original Committee's motive. It does, however, reveal the conceptual error which must be avoided. Compulsory retirement and disciplinary punishment are not two sanctions of differing severity from which the employer may choose. They are distinct powers directed to different ends. Regulation 22(2) cannot be justified as a milder means of dealing with misconduct which the employer regards as established. The impugned order is thus not sustainable.

77. This conclusion does not amount to an exoneration of the Petitioner. The Court has expressed no opinion on whether he demanded or accepted any illegal gratification. Those allegations are the subject of criminal proceedings and must be determined there upon the evidence and in accordance with law. Equally, if FCI considers that disciplinary action is warranted, nothing in this judgment prevents the Corporation from taking recourse to the applicable disciplinary Regulations, if otherwise permissible in law.

78. There remains the consequence of setting aside the order. Reinstatement in the present case cannot be viewed in isolation from the position which existed when the impugned retirement intervened. By then, the Petitioner had already been placed under deemed suspension with effect from 11th January, 2023 under Regulation 66 on account of his detention in the CBI case. He was therefore not in the active discharge of his functions when the order dated 17th April, 2023 was passed. Setting aside that order restores his status as an employee of FCI; it does not require that he be immediately restored to the sensitive functions which he previously discharged.

79. At the same time, the Court would not declare that the suspension ordered in January 2023 must be treated as having continued automatically throughout the period which followed. Regulation 66 contains its own requirements governing the continuation and review of suspension. Whether the Petitioner should remain under suspension after restoration to service is therefore a matter which FCI must determine under that Regulation. What the Court can, and considers it appropriate to do, is to restore the Petitioner to the position which existed before the impugned retirement, leaving the Corporation a short opportunity to regulate his status thereafter in accordance with law.

80. Accordingly, upon reinstatement, FCI shall, within two weeks, take a fresh decision under Regulation 66 as to whether the Petitioner is required to remain under suspension having regard to the pending criminal proceedings and any disciplinary proceedings which the Corporation proposes to initiate. Until that decision is taken, the Petitioner shall not be required to assume active charge. If an order of suspension is passed or continued, it shall thereafter be governed by the requirements of Regulation 66, including those relating to review, extension and subsistence grant. Nothing in this judgment directs or presupposes what that decision should be.

81. FCI must also decide, within four weeks from the date of uploading of the judgment, whether it proposes to pursue the allegations departmentally. If it elects to do so, the memorandum of charges shall be issued within that period. The allegations and the material on which they rest have been available to the Corporation since 2023; there is therefore no justification for leaving the matter open-ended. The disciplinary proceedings, if initiated, shall be concluded within nine months from the service of the memorandum

of charges. Any period during which the proceedings remain stayed by a Court, or are delayed for reasons attributable to the Petitioner, shall stand excluded. The assurance given on behalf of the Petitioner that he will cooperate and will not seek unnecessary adjournments is recorded.

82. The monetary consequences of the intervening period require separate consideration. Regulation 22(2)(A)(ii) provides that where an order of premature retirement is set aside by a Court, the intervening period would ordinarily be treated as duty for all purposes, including pay and allowances. Clause (iii), however, expressly permits the Court to give specific directions as to how that period is to be regulated. The present case warrants such a direction. The impugned order has not been set aside because the CBI material was irrelevant or incapable of raising a serious concern regarding the Petitioner's integrity. It has been set aside because material which could legitimately bear upon continued suitability was used to determine the alleged misconduct itself. The fact that the Petitioner was already under suspension when the premature retirement intervened is also material in moulding the relief.

83. The Petitioner shall therefore be treated as having continued in service throughout the period commencing from 18th April, 2023, for purposes of continuity of service and consequential notional benefits. The question of full pay and allowances for that period shall, however, not be finally determined at this stage. If FCI initiates disciplinary proceedings within the period specified above, the monetary treatment of the intervening period shall abide by the outcome of those proceedings and shall thereafter be regulated by the competent authority by a reasoned order in accordance with the applicable Regulations.

84. This arrangement cannot, however, continue indefinitely. If FCI does not initiate disciplinary proceedings within four weeks, the period from 18th April, 2023 until reinstatement shall stand treated as duty for all purposes, including pay and allowances, in terms of the proviso to Regulation 22(2)(A)(ii). The same consequence shall follow if proceedings are initiated but are not concluded within the period prescribed in paragraph 88 for reasons not attributable to the Petitioner. Any amounts already paid to the Petitioner consequent upon his premature retirement shall, of course, be duly adjusted.

Relief

85. For the reasons recorded above, the writ petition is allowed. The order dated 17th April, 2023, signed on 18th April, 2023, prematurely retiring the Petitioner under Regulation 22(2), and the order dated 6th July, 2023, signed on 11th July, 2023, rejecting his representation, are set aside.

86. The Petitioner shall stand restored to the service of FCI. His status upon such restoration and the period between 18th April, 2023 and reinstatement shall be regulated in accordance with the aforesaid directions.

87. It is clarified that nothing in this judgment amounts to an exoneration of the Petitioner. If FCI elects to initiate disciplinary proceedings, the allegations shall be examined independently and in accordance with the applicable Regulations, without treating the observations recorded by the Review Committee on 6th March, 2023 as findings of guilt.

88. The criminal proceedings pending against the Petitioner shall likewise proceed on their own merits, uninfluenced by any observation in this judgment. The Court has examined the material arising from those proceedings only to the extent necessary to determine the legality of the

exercise under Regulation 22(2).

89. The petition and pending applications are disposed of in the above terms. There shall be no order as to costs.

SANJEEV NARULA, J

SEPTEMBER 3, 2026/ab