

IN THE HIGH COURT At CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:-

The Hon'ble Justice Madhuresh Prasad
And

The Hon'ble Justice Prasenjit Biswas

M.A.T. 2299 of 2025

With

CAN 1 Of 2026

CAN 2 of 2026

Union of India & Ors.

Vs.

Yuvraj Chand Rajwar

For the U.O.I.	: Mr. Dhiraj Trivedi, Ld. A.S.G., Mr. Uttam Basak, Ms. Katha Sarkar, Ms. Divyanshi Shaw
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For the respondents	: Mr. K.B.S. Mahapatra, Adv. Mr. Aditya Shit.
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Judgment on	: 10. 09. 2026
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Madhuresh Prasad, J.:

1. The present intra court appeal arises out of a judgment of the learned Single Judge Bench dated 02.09.2025 in WPA No.30572 of 2016 quashing the order dated 14.06.2025 whereby and whereunder the writ petitioner was prematurely retired. The learned Single Judge Bench directed consideration of the petitioner's case by an appropriate review committee constituted as per Fundamental Rules

(FR) 56 (j) and Rule 48 *Central Civil Service (Pension) Rules, 1972*.

There was a further direction by the learned Single Judge Bench that if the petitioner had not attained the age of superannuation he should be reinstated along with arrears of salary and allowances with interest at the rate of 6 per cent per annum.

2. The writ petitioner was an inspector in the Central Industrial Security Force (CISF). At the relevant point of time he was posted at the unit of the force guarding Eastern Coalfields Limited at Sitalpur. By an order dated 14.06.2016 issued by the Deputy Inspector General of the Force, CISF North Eastern Zone, the petitioner was pre-maturely retired from service. The order was issued with immediate effect. The petitioner was also paid a sum equivalent to the amount of his pay and allowances for 3 months (notice period) as per his last pays drawn. The order of pre-mature retirement dated 14.06.2016 was put to challenge by the writ petitioner in W.P. No.30572 (W) of 2016.
3. Assailing the judgment of the learned Single Judge, the learned ASG, Mr. Trivedi submitted that the order of the learned Single Judge is unsustainable. Insofar as alleged incompetence of the Review Committee, the submissions were devoid of substance. Pursuant to instructions issued by the Ministry of Home Affairs, Government of India one CISF Circular No.16/2015, dated 07.09.2015 was issued. By this circular the Internal Screening Committee, Superannuation Review Committee and Representation Committee for disposal of cases under FR 56 (j) and Rule 48 of CCS (Pension) Rule 1972 was reconstituted. The circular provided 3 separate screening committees

for separate rank of members of the force. For the rank of Inspector (petitioner) the circular provided for a 3-member Superannuation Review Committee comprising of a:

(i) Chairman- SDG/ADG (HQrs),

(ii) Member (I)-IG (HQrs), and

(iii) Member-(II)-AIG (Estt).

4. The petitioner's claim was therefore, considered by a competent review committee comprising of AIG (Establishment), Inspector General (Headquarters) and Additional Director General (Headquarters). The submissions regarding the decision of petitioner's pre-mature retirement being taken by an incompetent authority, is unsustainable. The provisions relied upon by the writ petitioner are not applicable to the petitioner's case. The provisions relied upon are for review of officers on civil posts in the Government of India. Paragraph 2 of the circular No.16 of 2015 clearly states that the committee was constituted for reviewing the superannuation for members of the force. There is no allegation that the circular No.16 of 2015 was not complied by the authorities.
5. It is submitted by the learned ASG that the power of the authorities to prematurely retire, a member of the force is not in dispute. The decision is taken by a competent Review Committee. Further it is submitted that the Committee has taken into consideration the relevant factors including the 02 major punishments awarded to the petitioner while in service and 5 minor punishments awarded to him.

The punishments were awarded having regard to the repeated misconduct of the petitioners in the force. The nature of misconduct for which the petitioner was awarded punishment included involvement in theft of property of a guarded installation, use of derogatory language and threatening members of the force. He was also punished for other acts of indiscipline including absence from shift duty, and also for not taking prompt action in respect of one seriously injured Late Constable while performing R.I duty. The Review Committee therefore arrived at a decision regarding the petitioner's continuance in the force to be unsustainable based on relevant material. For the purposes of premature retirement, no provision circumscribes the consideration limited to entries in the ACR. Therefore, the decision was based on consideration of relevant material; and was beyond the scope of judicial review under Article 226 of the Constitution of India. The learned Single Judge therefore, should not interfere with the decision of the Review Committee.

6. The learned ASG relied upon decision of the Hon'ble Apex Court in the case of ***Union of India vs. Col J.N. Sinha & Anr.*** Reported in **(1970) 2 SCC 458**, to submit that the decision of the Review Committee cannot be interfered with, since the authority formed a *bona fide* opinion based on relevant consideration regarding the petitioner's premature retirement to subserve public interest. Such opinion which was not an arbitrary one and taken for energising the force, having regard to the requisite efficiency of a uniform and discipline force cannot be interfered with in exercise of judicial review.

7. Another judgment of the Hon'ble Supreme Court of India relied upon by the learned ASG is in the case of **Central Industrial Security Force vs. HC (GD) Om Prakash** reported in **(2022) 5 SCC 100**. The Apex Court considered various earlier judgments as regards premature retirement including judgment of a three judge bench of the Apex court in the case of **State of Punjab vs. Gurdas Singh** reported in **(1998) 4 SCC 92** wherein the Apex Court held that before decision to prematurely retire a government servant is taken, the authorities are required to consider the whole record of service. The judgment also considered earlier judgment of the Apex court in the case of **Pyare Mohan Lal vs. State of Jharkhand** reported in **(2010) 10 SCC 693**, wherein the Apex Court clarified that adverse entries prior to promotion would have no relevance and be treated as wiped off when the case of the government employee is considered for further promotion. ***“However, this “washed-off theory” will have no application when the case of an employee is being assessed to determine whether he is fit to be retained in service or requires to be given compulsory retirement. The rationale given is that since such an assessment is based on “entire service record”, there is no question of not taking into consideration the earlier old adverse entries or record of the old period. We may hasten to add that while such a record can be taken into consideration, at the same time, the service record of the immediate past period will have to be given due credence and weightage. For example, as against some very old adverse***

entries where the immediate past record shows exemplary performance, ignoring such a record of recent past and acting only on the basis of old adverse entries, to retire a person will be a clear example of arbitrary exercise of power. However, if old record pertains to integrity of a person then that may be sufficient to justify the order of premature retirement of the government servant.”

8. Considering earlier judgments, the Apex court held in the case of **HC (GD) Omprakash** (*supra*) at para 15:

“15. The entire service record is to be taken into consideration which would include the ACRs of the period prior to the promotion. The order of premature retirement is required to be passed on the basis of entire service records, though the recent reports would carry their own weight.”

9. The learned ASG also relied upon recent decision of a Co-ordinate Bench of this court in the case of **Swapan Kumar Roy Ex-Head Constable/GD vs. Union of India & Ors.**, in MAT 146 of 2024 on 03.09.2024, wherein the Coordinate Bench considered the plea of the writ petitioner therein that since he was granted career progression within last 5 years prior to the order of premature retirement, the premature retirement was unsustainable. The Coordinate Bench held:

“16. The contention of the appellant that, he was promoted within five years from the order of retirement, unfortunately is not substantiated by the evidence on record. Appellant was granted benefit under the career progression scheme within last five years of the order of

retirement. We are unable to consider grant of such benefit as a grant of promotion in the service career of the appellant.”

10. The learned Advocate for the writ petitioner submitted that judgment of the learned Single Judge did not require any interference.

11. The Deputy Inspector General issued the impugned order of premature retirement dated 14.06.2016, whereas the authority competent to take such decision for the petitioner's head of the department, namely the Director General of the Force. Learned Advocate submitted that the Government of India specified the Constitution of Review Committee for consideration; and for taking a decision in respect of premature retirement. For non-gazetted officers, the Annexure II in Appendix IX of the CCS Pension Rules specified:

ANNEXURE-II

CONSTITUTION OF COMMITTEES

<i>Classification 1</i>	<i>Composition of Review Committee 2</i>	<i>Composition of Representation Committee 3</i>
.....		
<i>(ii) Non-gazetted officers serving under a Ministry/Department.</i>	<i>(ii) The Head of the Department or the appointing Authority whomsoever is higher would be the Chairman; another senior officer nominated by an appropriately higher authority and who does not exercise direct immediate control or supervision over</i>	

	<i>the officers being screened as member. If action is proposed to be taken on grounds of lack of integrity, the Vigilance Officer concerned shall be associate as third Member. Final orders will be passed by the appropriate authority.</i>	
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12. The petitioner was a non-gazetted officer in the force. As per the provision decision in respect of his pre-mature retirement was to be taken by a review committee comprising of the petitioner's head of the department (Director General of the Force). The order issued by the DIG is unsustainable. He submits that the order of premature retirement issued by the DIG is based on scrutiny by a Committee comprising of an Assistant Inspector General/Estt, Inspector General (HQrs) and an Additional Director General (HQrs). Therefore, neither the scrutiny, nor the impugned order is issued by the competent authority. The decision therefore is taken by authorities who have no jurisdiction to consider the petitioner's pre-mature retirement. The order of pre-mature retirement was thus unsustainable, and fit to be quashed.

13. The learned Advocate for the writ petitioner/respondent submitted that the criteria to be followed by a Review Committee while making recommendations is laid down in Clause 10 (iv) of the Office Memorandum dated 28.08.2020. Accordingly, no government servant

should ordinarily be made to retire prematurely if his service during the preceding 5 years, or where he has been promoted to a higher post during that 5 year period and his service in the highest post, has been found satisfactory. In case of a government servant promoted during the last 5 years the previous entries in the ACRs may be taken into account only if he was not promoted on merit. The specific provision relied upon reads:

“(iv) No Government servant should ordinarily be retired on ground of ineffectiveness, if, his service during the preceding 5 years or where he has been promoted to a higher post during that 5 year period, his service in the highest post, has been found satisfactory. There is no such stipulation, however, where the Government servant is to be retired on grounds of doubtful integrity. In case of those Government servants who have been promoted during the last 5 years, the previous entries in the ACRs may be taken into account if he was promoted on the basis of seniority cum fitness, and not on the basis of merit. (v) The entire service record of a Government servant should be considered at the time of review. The expression 'service record' refers to all relevant records and therefore, the review should not be confined to the consideration of the ACR/APAR dossier. The personal file of the Government servant may contain valuable material. Similarly, his work and performance could also be assessed by looking into files dealt with by him or in any papers or reports prepared and submitted by him. It would be useful if the Ministry I Department/Cadre puts together all the data available about the Government servant and prepares a comprehensive brief for consideration by the Review Committee. Even uncommunicated remarks in the ACRs/APARs may be taken into consideration.”

14. In the present case there is no issue of adverse ACR. In fact the petitioner was granted the benefit of MACP within the last 5 years. Under the circumstances there was no occasion for the petitioner's premature retirement.
15. The learned Advocate also submitted that the Screening Committee had recommended the petitioner to be "*fit for retention*". However, the review committee found the petitioner to be "*unfit*". The decision of the Review Committee, therefore, is at stark variance with decision of the Review Committee, and the same is unsustainable. Reliance is placed on a CISF Circular No.1 of 2014 to submit that the eligibility condition for grant of the career progression were one and the same, as required for grant of regular promotion. For grant of career progression (Scale) also, a member of the force was required to be attaining the prescribed benchmark, Qualifying in PCC and in physical SHAPE-I categorization. Only upon fulfilling such requirement, otherwise requisite for a promotion, the petitioner was granted the benefit of MACP. Therefore, as per clause 10 of the office Memorandum, extracted above, the decision of the Review Committee to prematurely retire the writ petitioner is unsustainable. He submits that the Review Committee was overwhelmed by past penalties inflicted against the petitioner, which could not have been considered. Once the petitioner was found fit for promotion at the time of grant of benefit of MACP, there was no scope for the petitioner to be considered unfit or ineffective; for prematurely retiring the petitioner.

16. He further submits that the Review Committee did not specify any reasons for differing with the recommendations made by the screening committee, favourable to the petitioner. Thus, the decision of the Review Committee is unsustainable.
17. We have considered the rival submissions, the relevant provisions relied upon, and the judgments cited at the bar.
18. Insofar as submission regarding lack of competence of the Review Committee, we find force in the submission of the learned ASG that the petitioner's case for the purposes of pre-mature retirement was required to be scrutinized by the "*Superannuation Review Committee*", specified for Inspectors in CISF Circular No.16 of 2015. The Circular was issued by the office of the Director General of the Force pursuant of instructions issued by the Ministry of Home Affairs in this regard. The circular was issued for considering and disposing of cases of CISF personnel under FR 56 (j) and Rule 48 of the CCS (Pension) Rules 1972.
19. The circular therefore covers the services of the members of the armed forces. This circular was not questioned/challenged by the writ petitioner. Under the circumstances we find no scope for the petitioner to place reliance on the Constitution of a committee under Appendix (ix) of the CCS Pension Rules. The same was for civil employees of the Government of India, and not for member of the force (CISF). We, therefore, find no infirmity in composition of the review committee which considered the desirability of continuance; or

discontinuance by premature retirement of members of the force, including the writ petitioner. The committee comprising of AIG/Establishment, Inspector General/HQ and Additional Director General/HQ was competent as per the CISF Circular No. 16/2015 to consider and decide the petitioner's premature retirement.

20. The learned advocate for the petitioner also made a submission that in view of the nature of ACR entries in the petitioner's service records, there was no basis for petitioner's premature retirement. However, the learned advocate for the petitioner has not shown any provision circumscribing the limit of scrutiny for this purpose, limited only to ACR Entries. In fact, the decisions of the Hon'ble Supreme Court of India in the case of **Swapan Kumar Roy** (*supra*); **Central Industrial Security Force** (*supra*); **Col J.N Sinha** (*supra*) relied upon by the learned ASG leaves no ambiguity that all relevant factors including ACR was required to be considered. In the present case all relevant factors including various penalties awarded to the petitioner have been considered to conclude that the petitioners continuance in the force would not be in public interest.

21. Insofar as the submission that the punishment cannot be considered since the petitioner was granted a benefit of MACP, after many of the punishments, such submission, in our opinion is equally devoid of substance.

22. Paragraph 6 of the CISF Circular No.1 of 2014 regarding MACP, on which the petitioner placed reliance reads:

“06 Since, the other two conditions viz., (a) qualifying of PCC and (b) attaining SHAPE-1 medical categorization which were essential for granting Financial Upgradation under ACP scheme are no longer required to be followed under MACP Scheme, the aspect of having consequential impact of deferment of FUGs under MACPS resulting due to delay in qualifying PCC / attaining SHAPE-I under ACP Scheme would not have any consequential deferring impact in granting 2nd/3rd Financial Upgradations under MACP scheme as they are no longer pre-requisites for granting FUGs under MACPS”.

23. A plain reading of the provisions reveals that the eligibility for the purposes of grant of, Financial Upgradation (FUG) under MACP Scheme is much less than the eligibility for grant of a regular promotion. The circular has diluted the earlier requirement for grant of FUGs under ACP, which included qualifying PCC, and being in Shape 1 medical category, at par with requisite qualifications for grant of promotion, as per submission of the learned advocate for the writ petitioner. The CISF circular no.1 of 2014 therefore does not support the petitioner's case.

24. The learned advocate also relied on decision of the Hon'ble Supreme Court of India in the case of **J.D. Shrivastva vs. State of M.P. & Ors.**, reported in **1948 Lab I.C. 337**, wherein the Apex Court took notice of the fact that for taking a decision to compulsorily retire the appellant therein, the employer did not rely upon anything apart from the confidential records. The employer therein relied upon old dug out files containing ACR Entries adverse to the petitioner. It is in this context that the Apex Court held such action of the employer to be unsustainable.

25. Reliance placed by the learned advocate for the writ petitioner on decision of the Hon'ble Supreme Court of India in the case of **J.D Shrivastva** (*supra*) is misplaced. Judgment of the Apex Court was considering the case is of a civil employee and not a member of an armed force, who is bound by a more rigorous standard of suitability having regard to the nature of duties and responsibilities to be discharged in harsh and stressful considerations, and also a requirement of a high degree of discipline, integrity and dedication to duty.
26. In the present case the Review Committees considered the various penalties inflicted upon the petitioner. *Bona fide* consideration of the entire service record has to be viewed keeping in the background the fact that petitioner was an Inspector in a disciplined Central Armed Police Force which requires a high level of discipline, integrity, dedication and duty. Therefore, the decision not to continue the petitioner, in public interest, does not suffer from any infirmity. We have also found above that there is no fetter on such consideration in respect of members of the force.
27. We further observe that neither a case of perversity nor a case of arbitrariness is made out in the decision making process. There is no specific alleged *mala fide* against any authority involved in the process of consideration. We, therefore, find force in the submission of the Ld. ASG that there was no scope for the writ court to sit in appeal over the decision of the Review Committee to compulsorily retire the writ petitioner.

28. Insofar as the submission that the impugned order dated 14.06.2016 is issued by the Deputy Inspector General, who is not competent. We are of the view that the submission is unsustainable. The impugned order is a mere communication, signed by the petitioner's appointing authority. The same is preceded by consideration of a Review Committee Annexure-R-4 to the Supplementary Affidavit on behalf of the respondents which Committee we held was constituted in accordance with law, and taking into consideration relevant factors.

29. Under the circumstances, the decision of the learned Single Judge to interfere with the order of compulsory retirement and to pass consequential orders, in our view, is unsustainable in the eyes of law.

30. The appeal is allowed.

31. The order of the learned Single Judge is set aside. Consequently, the writ petition stands dismissed.

32. Urgent certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Madhuresh Prasad, J.)

I agree.

(Prasenjit Biswas, J.)