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

CNR No. DLHC013759572018

+ **W.P.(C) 12251/2018 & CM APPL. 47475/2018**

M. P. SINGH

.....Petitioner

Through: Dr. Surat Singh, Mr. Aadarsh Teotia,
Mr. Keshar Tanwar, Advocates.

versus

FOOD CORPORATION OF INDIA AND ANR. Respondents

Through: Mr. Manoj, Ms. Aparna Sinha,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **12.08.2026**

1. The Petitioner was prematurely retired from the service of the Food Corporation of India¹ on 5th July, 2002. More than two decades later, the legality of that decision continues to occupy the parties and the Court. The immediate challenge in the present petition, however, is to a communication dated 21st June, 2018, by which FCI rejected a legal notice issued by the Petitioner and stated that his case had already been reviewed and decided in 2004.

2. The impugned 2018 communication was the latest step in a dispute that had begun with the retirement order of 5th July, 2002. Its effect cannot be understood without looking at what happened in the intervening years,

¹ "FCI"



particularly the representations made by the Petitioner, the decisions taken by FCI and the earlier proceedings before this Court.

The record

3. The Petitioner joined FCI in 1969 and rose through the ranks to the post of Assistant Manager (Quality Control). By an order dated 10th October, 2001, passed in disciplinary proceedings, he was reduced to the lower time scale of Technical Assistant Grade I² for a period of three years.

4. Regulation 22(2) of the Food Corporation of India (Staff) Regulations, 1971 authorises premature retirement in the following terms:

“The appropriate authority shall, if it is of the opinion that it is in the interest of the Corporation to do so, have the absolute right to retire a Cat. I, II, III & IV employee after he has attained the age of 50 years by giving him a notice of not less than 3 months in writing or 3 months pay and allowances in lieu of such notice.”

5. Regulation 22(5) identifies the competent authority, in relation to an employee, as the authority competent to terminate the services of an employee of equivalent rank under Regulation 19(1).

6. A Zonal Committee met on 24th June, 2002 to review the cases of Category II officers who had crossed the age of 50 years. The minutes expressly describe the exercise as a review of “Cat. II officers”. They record that the Committee considered 64 Assistant Managers (QC) and five Assistant Managers (Depot), of whom 19 were found unfit for retention.

7. One part of those minutes assumes significance. The Committee noticed that M.L. Chauhan had already been reverted by the disciplinary authority to TA I. It therefore recorded:

“During review it was observed that Sh. M.L. Chauhan was reverted by the

² “TA I”



disciplinary authority as T.A.I, therefore, Committee was of the view that his case may be reviewed by Regional Office, Punjab.”

8. The Petitioner had also been reduced to TA I before the Committee met. His case was nevertheless considered in the Category II exercise. Acting upon the recommendation of the Committee, the Zonal Manager (North) passed the order dated 5th July, 2002 retiring him with immediate effect under Regulation 22(2).

9. The Petitioner challenged the decision administratively. He submitted representations, including one dated 12th August, 2002, and also approached this Court in Writ Petition (Civil) No. 6455/2002. On 4th August, 2003, the writ petition was disposed of after FCI stated that a decision on the representation was awaited. FCI was directed to decide it within two months. The Court did not examine the validity of the retirement order.

10. Meanwhile, the Petitioner had also addressed an appeal dated 22nd January, 2003 to FCI Headquarters. On 16th September, 2003, the Executive Director at Headquarters examined the record and noticed the manner in which M.L. Chauhan had been dealt with. The communication records that the Petitioner had likewise been reverted to TA I before his case was considered by the Committee and states:

“The records revealed that the case of Sh. M.P. Singh is also identical because he had been reverted vide order dated 10/12-10-2001 to the post of T.A.I whereas the Committee has decided his case on 24.02.2002. Obviously, this case also should have been reviewed by the Regional Office, Punjab/Haryana.”

11. The Zonal Office/Regional Office was accordingly asked to undertake a fresh review and intimate its outcome.

12. A further communication dated 15th October, 2003 from the Zonal Office to the Senior Regional Manager, Punjab, records that, since the



Petitioner had been reverted to TA I, his case “should have been reviewed by a committee of officers at R.O. level under Chairmanship of S.R.M., Punjab being Category III official”. It then explains how the Petitioner came to be included in the Zonal review. His reversion from Assistant Manager to TA I had not been reflected in the vigilance profile forwarded by the Regional Office on 4th May, 2002. The Regional Office was asked to explain the omission.

13. FCI’s own contemporaneous correspondence, therefore, acknowledged an anomaly in the original review process.

14. The matter did not end there. A Committee chaired by the Managing Director subsequently considered the representations of five officers, including the Petitioner. The consequential memorandum dated 12th January, 2004 records:

“...the Committee, who in turn after going through all the relevant records observed that all these officials have not made any new points. The Committee observed that the action taken by Zonal Manager (North) in exercise of powers conferred in 22(2) of the Food Corporation of India (Staff) Regulations, 1971 is in order and rejected his representation.”

15. The memorandum does not refer to the communication dated 16th September, 2003. It does not discuss the subsequent letter dated 15th October, 2003, the omission in the vigilance profile, or why the course adopted for M.L. Chauhan need not be followed in the Petitioner’s case. The Court, therefore, is unable to accept, without qualification, FCI’s submission that the memorandum dated 12th January, 2004 demonstrably constituted compliance with every aspect of the direction dated 16th September, 2003.

16. That conclusion, however, does not decide this petition. On 23rd February, 2004, the Petitioner filed an appeal/review before the Chairman,



FCI. It was expressly directed both against the retirement order dated 5th July, 2002 and the rejection communicated on 12th January, 2004. More importantly, the Petitioner then raised in clear terms the very objection on which the present petition rests. After referring to his reduction to TA I, he stated that the Zonal Manager was not the appropriate authority and that the Senior Regional Manager was competent to review a Category III employee. The same appeal also questioned the amount paid in lieu of three months' notice.

17. By February 2004, therefore, the Petitioner was fully aware of the factual and legal foundation of the case now advanced before this Court. The objection was not latent or subsequently discovered. It had been identified, articulated and made the basis of a claim for reinstatement.

18. The Petitioner thereafter instituted W.P.(C) 19704/2004 challenging the retirement order and the memorandum dated 12th January, 2004. That petition was dismissed in default on 5th February, 2015. FCI has placed the subsequent orders on record. The attempts to restore the proceeding ultimately failed. On 18th July, 2017, this Court declined further restoration, observing that the applications did not inspire confidence and that the petition had been prosecuted "very casually". A review petition was also dismissed on 11th September, 2017.

19. A few months later, the Petitioner issued a legal notice dated 21st December, 2017, once again asserting that the direction dated 16th September, 2003 had remained unimplemented. Headquarters forwarded the notice to the Executive Director (North) on 18th January, 2018. The relevant part reads:

"However, it appears that requisite action in the matter as per cited Hqrs.,



letter dated 16.09.2003 has not been taken by ZO(N) till date... ”

20. The expression used is “it appears”. Read as a whole, the communication was prompted by the allegation contained in the Petitioner’s legal notice and sought action upon it. It cannot fairly be treated as an admission by FCI Headquarters that no review whatsoever had taken place after 2003. At the same time, the communication does show that, even in 2018, the administrative record had not yielded a ready answer to the question whether the particular direction of 16th September, 2003 had been acted upon.

21. When no response came, the Petitioner filed W.P.(C) 5800/2018. On 28th May, 2018, this Court directed FCI to “positively respond” to the legal notice within four weeks and convey its fate so that the Petitioner could avail such remedies “as available in law, if need be”. The petition was disposed of without examination of the underlying service dispute.

22. FCI then passed the order dated 21st June, 2018. It referred to the review conducted under the chairmanship of the Managing Director, the Petitioner’s disciplinary record and ACRs, and stated that under the FCI Delegation of Powers a higher authority could exercise powers delegated to an authority below it. It consequently held that the review by the Zonal Manager was tenable and rejected the legal notice.

23. The Delegation of Powers relied upon in that order has not been placed before this Court. The competence objection therefore need not be decided at this stage, for the reasons which follow.

The rival positions

24. Counsel appearing for the Petitioner submits that the fresh review directed on 16th September, 2003 has never taken place. The distinction



between the review of his representation dated 12th August, 2002 and the later direction for a fresh review is emphasised. Reliance is also placed upon M.L. Chauhan's case and the communication dated 15th October, 2003 to contend that FCI itself accepted that the Petitioner's reversion to TA I had not been reflected in the vigilance profile and that his case ought to have been considered at Regional Office level. The communication dated 18th January, 2018 is relied upon as confirmation that the exercise remained incomplete.

25. Counsel for FCI submits that the Petitioner, through successive proceedings, seeks to unsettle an order of 2002. His case was reviewed by a Committee chaired by the Managing Director and rejected on 12th January, 2004. He thereafter challenged the matter in W.P.(C) 19704/2004 but allowed that proceeding to be dismissed. A legal notice issued in 2017 and the order passed upon it in 2018, it is argued, cannot furnish a fresh cause of action. On merits, FCI relies upon the Petitioner's disciplinary history and ACRs and maintains that there was sufficient material for his premature retirement.

Analysis

26. The record presents two distinct questions. First, whether the original review process suffered from a procedural infirmity, having regard to the Petitioner's reversion to TA I before the Zonal Committee considered his case. Secondly, assuming such an infirmity arose, whether the Petitioner can now reopen that issue through a challenge to the communication dated 21st June, 2018.

27. On the first, the Petitioner's grievance cannot simply be dismissed as fanciful. He had been reduced to TA I before the Zonal Committee met.



That Committee was constituted to review Category II officers. It treated M.L. Chauhan differently for precisely the reason that Chauhan had been reverted to TA I. Headquarters thereafter described the Petitioner's case as "identical" in that respect and stated that it should have been reviewed by the Regional Office. The Zonal Office then acknowledged that the Petitioner's reversion had not been reflected in the vigilance profile placed before the Committee.

28. The record thus discloses a substantial question regarding the original process. But that question was neither unknown nor unavailable to the Petitioner.

29. He expressly raised it in his appeal/review dated 23rd February, 2004 and thereafter challenged the retirement order and the decision dated 12th January, 2004 in W.P.(C) 19704/2004.

30. Once that proceeding was dismissed and restoration failed, the challenge to the original decision, including the objection to the level of review, stood abandoned.

31. The Petitioner could not thereafter revive the same dispute merely by reiterating the grievance in a legal notice and treating FCI's response thereto as giving rise to a fresh cause of action. The letter dated 18th January, 2018 and the impugned communication dated 21st June, 2018 have to be viewed against that procedural history. Neither communication reopened the original proceedings or conferred upon the Petitioner a fresh right to challenge the retirement order.

32. The law on this aspect is settled. In *C. Jacob v. Director of Geology*



and Mining,³ the Supreme Court cautioned against permitting a stale service dispute to acquire an appearance of freshness through a subsequent representation and an order passed upon it. Consideration and rejection of such a representation do not revive the original cause of action.

33. *Union of India v. M.K. Sarkar*,⁴ carried the principle further. Delay and laches are to be examined with reference to the original cause of action. A direction by a Court to consider a representation, without adjudicating the merits, and an order subsequently passed in compliance with that direction, do not extend time or erase the delay.

34. The same rule was reiterated in *State of Uttaranchal v. Shiv Charan Singh Bhandari*.⁵ Repeated representations do not arrest the passage of time, and an administrative decision taken pursuant to a judicial direction to consider a stale claim does not give that claim a new life.

35. Those principles fit this case closely. The order dated 28th May, 2018 did not reopen the Petitioner's retirement. It required only a response to his legal notice. The words chosen by the Court are themselves instructive. The Petitioner was left to pursue such remedies "as available in law". The direction preserved a remedy if one existed. It did not create one which had ceased to remain available on account of the earlier course of proceedings.

36. Likewise, the order dated 21st June, 2018 was not a fresh substantive determination of the Petitioner's service rights. The relief now sought cannot be granted without reopening the retirement order and the events of 2003 and 2004. The form of the prayer cannot alter the substance of the controversy.

³ (2008) 10 SCC 115

⁴ (2010) 2 SCC 59



37. Nor does the alleged deficiency in the memorandum dated 12th January, 2004 alter the position. The Petitioner was aware of that grievance in 2004, pursued it before this Court, and cannot now reopen it through a later representation and response.

38. The Court would not place the matter on the technical footing of *res judicata*. W.P.(C) 19704/2004 was not decided on its merits. The impediment is different. The Petitioner had already invoked the jurisdiction of this Court in respect of the same retirement order, allowed that proceeding to be dismissed, failed in restoration and review, and then attempted to revive the same controversy through a legal notice. A stale service dispute does not acquire a fresh life under Article 226 merely because it is raised again through a later representation or proceeding.

39. There is also a concern regarding disclosure. The petition does not set out with sufficient candour the complete course and fate of W.P.(C) 19704/2004, including the failed restoration and review proceedings. Those facts were material to the exercise of discretionary jurisdiction under Article 226.

40. In *Auroville Foundation v. Natasha Storey*,⁶ the Supreme Court reiterated that a party invoking Article 226 must disclose material facts and earlier proceedings bearing on the relief sought. Successive proceedings for substantially the same relief, without candid disclosure of the earlier litigation, may legitimately be viewed as an abuse of process.

41. The petition is, however, not being dismissed on suppression alone. The correspondence of September and October 2003 did raise a procedural

⁵ (2013) 12 SCC 179

⁶ 2025 INSC 348



concern, and FCI's letter dated 18th January, 2018 added to the uncertainty. But that does not alter the decisive fact: the grievance was known, asserted and brought to Court in 2004. It cannot be revived in the present proceedings through a later legal notice and response.

42. The contention founded on parity with M.L. Chauhan requires closer examination. The record establishes that both officers had been reverted to TA I before the review and that FCI Headquarters treated their cases as identical for the purpose of deciding the level at which the review ought to occur. It does not establish that their service records, disciplinary histories or ACRs were identical. Nor has the final decision of the Regional Office in Chauhan's case been placed on record. The Petitioner can therefore draw support from Chauhan's case on the question of procedure; he cannot claim, on this material, an automatic entitlement to the same ultimate result.

43. The remaining challenge to the retirement order does not take the matter further. In ***Baikuntha Nath Das v. Chief District Medical Officer, Baripada***,⁷ the Supreme Court held that compulsory retirement in public interest is not a punishment, carries no stigma, and that the principles of natural justice have no place in the context of an order of compulsory retirement. Judicial review remains available where the decision is *mala fide*, rests on no evidence, or is so arbitrary that no reasonable person could have formed the requisite opinion on the material before it.

44. The Petitioner's submission that the retirement is invalid merely because no show cause notice or hearing preceded it cannot therefore be accepted.

45. Nor is this a case in which the record before the reviewing authorities



was wholly devoid of material. The Committee which examined the Petitioner's case in December 2003 had before it several disciplinary penalties and the ACRs for 1994, 1995 and 1996. Those ACRs described his performance as "FAIR" and repeatedly referred to the need for scrutiny on account of his involvement in vigilance cases. Whether that material was sufficient to warrant retirement was primarily for the competent authority. This Court cannot undertake a fresh appraisal of the service record as an appellate forum.

46. The separate grievance concerning the amount of three months' pay does not require adjudication at this distance of time. It was specifically raised in the Petitioner's original appeal and again in the appeal/review dated 23rd February, 2004. It stands on the same footing as the other objections to the order of 5th July, 2002 and cannot acquire a fresh cause of action through the proceedings of 2018.

47. One final clarification is necessary. Since the Delegation of Powers relied upon by FCI has not been produced, the Court expresses no opinion on FCI's contention that the Zonal Manager was competent to act. The petition fails not on acceptance of that contention, but because the competence objection was known, raised and carried to Court in 2004, and cannot now be reopened through the 2018 response to a legal notice.

Conclusion

48. The position can thus be stated concisely. The record does disclose an arguable irregularity in the manner in which the Petitioner's case was originally placed before the Zonal Committee in 2002. FCI itself noticed that irregularity in 2003. But the Petitioner was aware of the point, raised it

⁷ (1992) 2 SCC 299



before the Corporation, and carried his challenge to this Court in 2004. The later failure to prosecute that proceeding cannot be repaired by a representation made in 2017. The letter dated 18th January, 2018, the direction of this Court dated 28th May, 2018, and FCI's consequential order dated 21st June, 2018 neither effaced the intervening history nor revived the original cause of action.

49. The petition is accordingly dismissed. All pending applications stand disposed of.

SANJEEV NARULA, J

AUGUST 12, 2026/ab