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**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 464 of 2013**

Shri Reshamlal Kurre S/o Late P.R.Kurre, aged about 52 years, Village Mahka, Post Rahoud Vahay Kharaud, Thana Sheori Narain, Tehsil Pamgarh, District Janjgir-Champa, Chhattisgarh.

---- **Petitioner****Versus**

1. State of Chhattisgarh, Through Principal Secretary, Government of Chhattisgarh, Law and Legislative Affairs Department, Mantralaya, DKS Bhawan, Shastri Chowk, Raipur, Chhattisgarh.
2. The High Court of Chhattisgarh, Through the Registrar, Bilaspur, Chhattisgarh.

---- **Respondents**


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| For Petitioner             | : Shri C.J.K.Rao and Shri Harish Khutiya, Advocates. |
| For Respondent No. 1/State | : Shri Gagan Tiwari, Deputy Government Advocate.     |
| For Respondent No. 2       | : Shri Ashish Shrivastava, Advocate.                 |

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**Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**  
**Hon'ble Shri Prashant Kumar Mishra, Judge**

**Order on Board****Per P.R. Ramachandra Menon, Chief Justice****08/05/2019**

1. Compulsory retirement of the Petitioner in terms of Rule 13(2) of the Chhattisgarh Higher Judicial Service (Recruitment and Conditions of Service) Rules, 2006 (*for short 'the Rules'*) on attaining 20 years of service or 50 years of age as the case may be, is the subject matter of challenge in this writ petition.
2. Heard Shri C.J.K.Rao, learned counsel for the Petitioner, Shri Gagan Tiwari, learned Deputy Government Advocate for the 1<sup>st</sup> Respondent/State and Shri Ashish Shrivastava, learned standing counsel for the 2<sup>nd</sup> Respondent, at length.

3. The sequence of events is as follows: the Petitioner, on acquiring the necessary qualification participated in the process of selection and was appointed as a Civil Judge Class II in March 1995. On satisfactory completion of probation, he was confirmed in service and was later promoted as Civil Judge Class I in the year 2000. He was given further promotions to the post of Additional Chief Judicial Magistrate in the year 2004 and thereafter to the Higher Judicial Service as Additional District Judge (FTC) on *ad hoc* basis in the year 2005.
4. In May 2006, the Petitioner was served with a copy of the Annual Confidential Report (*for short 'the ACR'*) for the period ending March 2001 which contained some adverse remarks which was sought to be expunged by filing of a representation before the competent authority. Pursuant to the said representation, the matter was examined and the adverse remarks were expunged. Subsequently, the Petitioner was served with the extracts of the ACR for the subsequent period from 01.04.2004 to 30.10.2004 wherein there was an observation to the effect that it was for the information of the Petitioner and for future guidance. It is stated that the Petitioner was not required to file any representation in this regard. Subsequently, the Petitioner was served with the ACR for the period ending on March 2007 and here again, some remarks were made stating that no representations need be preferred against the same.
5. In the meanwhile, the Petitioner participated in the examination conducted by the High Court of Chhattisgarh for the post of District Judge in terms of the Rules and came out successful, by virtue of which he got placement in the select list in the order of merit. Based on this inclusion, the Petitioner was promoted to the post of District Judge (Entry Level) as per the gazette notification dated 08.12.2008. While so, the Petitioner was served with copies of the ACR for the period 01.04.2007 to 31.01.2008 and thereafter, the extracts of the ACR from 01.04.2008 to 31.03.2009 as well. Here again,

some remarks were incorporated stating that it was for the information of the Petitioner and for future guidance. The ACRs in respect of the subsequent periods from 01.04.2009 to 31.03.2010 were supplied to the Petitioner in August, 2010 and almost 2<sup>1</sup>/<sub>2</sub> years later, he was served with an office memorandum Annexure P/1, dated 16.03.2011 issued by this Court as to the compulsory retirement of the Petitioner in terms of Rule 13(2) of the Rules, being one among the 16 Judicial Officers as mentioned therein. Based on the office memorandum issued by this High Court, the matter was considered by the State Government who issued Annexure P/2, dated 26.03.2011 giving effect to the resolution passed by this Court, virtually taking the service of the Petitioner to an end. This made the Petitioner to feel aggrieved, who approached this Court by filing the present writ petition.

6. It is contended that under similar circumstance, another writ petition bearing WP(C) No. 441 of 2011 has been preferred by another official whose name is also included in the proceedings/orders passed by this Court and the Government came to be filed; followed by yet another petition bearing WP(C) No. 446 of 2011 preferred a similarly situated officer, aggrieved under similar circumstance. It is in the said circumstance, the above writ petition also came to be admitted and is pending for consideration before this Court.
7. The learned counsel for the Petitioner submits that the course pursued in finalising the proceedings against the Petitioner is not with proper application of mind. So is the position with regard to the action taken by the Government in giving effect to the resolution of this Court by passing Annexure P/2 order. It is stated that the Rule sought to be relied on against the Petitioner is not attracted and that the entire service record of the Petitioner have not been duly considered, to have the Petitioner declared as a "deadwood", so as to come within the purview of the said Rule or the law

declared by the Apex Court in the relevant verdicts which govern the field. The learned Counsel also submits that another judicial officer by name B.R.Pradhan had approached this Court challenging the very same proceedings (to the extent he was aggrieved) by filing WP(S) No. 459 of 2013 and after considering the merits involved, the impugned orders have been set aside by this Court as per the judgment dated 27.10.2018 granting all the consequential reliefs. This being the position, the Petitioner is also to be extended similar benefits and hence seeks for allowing the writ petition.

8. The learned counsel for the 1<sup>st</sup> Respondent/State submits that the idea and understanding of the Petitioner as to the applicability of the relevant rule and as to the effect of the binding precedents is thoroughly wrong and misconceived. It is stated that the matter has been examined meticulously by the Government with reference to the resolution passed by this Court vide Annexure P/1 and a proper finding has been arrived at leading to Annexure P/2, which is not assailable under any circumstance. Reliance is also sought to be placed on the verdict passed by the Apex Court in ***R.C.Chandel v. High Court of Madhya Pradesh & Another***; (2012) 8 SCC 58.
9. Shri Shrivastava, learned counsel appearing for the 2<sup>nd</sup> Respondent submits that the reliance sought to be placed by the Petitioner on the verdict passed by this Court in ***Pradhan's*** case is not applicable to the Petitioner by virtue of the difference in the factual scenario. The learned counsel seeks to place reliance on the verdict passed by the Apex Court in ***Rajendra Singh Verma (Dead) Through LRs and Others v. Lieutenant Governor (NCT of Delhi) and Others***; (2011) 10 SCC 1, with particular reference to paragraphs 161, 183 and 191 and the concluding paragraph 218.
10. The scope of the Rules which is *pari materia* similar to the Rules of Madhya Pradesh State, was the subject matter of consideration before the Apex

Court in the decisions cited across the Bar, however, before going to the above decisions, it will be worthwhile to understand the scope of the verdict passed by this Court in **Pradhan's** case.

11. It is true that Mr. Pradhan was also one among the 16 judicial officers who were compulsorily caused to be retired by this Court as per the relevant proceedings. There were adverse remarks against Mr. Pradhan as well which was sought to be justified by the Respondents. But during pendency of the matter before this Court, the original records were called for and they were produced. The contention of the Petitioner in the said case was that the conditions and parameter which go into the decision making process for exercising the power of compulsory retirement in terms of Rule 13(2) of the Rules was not made out from the overall assessment of the service records of the Petitioner. It was also pointed out that the said Petitioner had earned his promotion as regular Additional District and Sessions Judge and further that the decision of the High Court as well as the State Government came as a 'bolt from the blue', since there was hardly anything adverse either with regard to the work or integrity throughout his service. The Bench observed in paragraph 6 that though the High Court in the counter affidavit had annexed Annexure R/2, summary and extracts of the service record of the Petitioner which formed the basis for the High Court to pass the resolution invoking the power of compulsory retirement, a closer look at the original service record of the Petitioner reflected something contrary. It is also observed therein that most of the superior officers including the portfolio Judges, especially in the recent times, before the decision to compulsory retire him from service had talked highly of the judicial officer and granted him the rating of 'good' or 'very good'. There is also a reference to the effect that for the period when the disposal rate related was shown to be unsatisfactory, the records indicated the reason thereof, such as 'nature of posting' and 'the work at the station' etc.

12. The inconsistency with regard to the contents of the original file and the aspects recorded in the extracts has been specifically adverted to in paragraphs 7 and 8 of the judgment dated 27.10.2018. For the purpose of convenience and reference, we find it appropriate to have the said paragraphs extracted below:

"7. Confronted with the original service record which we had occasion to go through and which was also shared with the learned Advocate General representing the High Court he with due grace and dignity, that is expected from the office of the Advocate General, submits that there could be an error of judgment because the decision and the records are not reconcilable which fits into the parameters for exercise of power of compulsory retirement.

8. We too are satisfied that the reason which should have formed the basis for declaring a Judicial Officer to be undesirable or a deadwood is not emerging from the entire service record of the petitioner. If that be so, then obviously, there seems to be serious omission on the part of the Full Court of the High Court in including the petitioner in the list of such Judicial Officers, who needed to be compulsorily retired."

13. From the above, it is quite evident that the query raised by the Court, particularly with regard to the inconsistency in the stand with reference to the original records was fairly conceded by the learned Advocate General stating that there could be an error of judgment because the decision taken and the original records were not reconcilable, which fit into the parameters for exercise of power of compulsory retirement. It was on the basis of the said finding, with reference to the original records, in respect of the inconsistency noted and the 'concession' made by the learned Advocate General before this Court, that a finding was rendered by the Bench, holding that the impugned orders were no longer sustainable under any circumstances, in turn, leading to the quashing of the said orders as if those orders were never passed.
14. The question to be considered is whether the said judgment could be taken as a precedent to decide the case of the Petitioner herein.

15. Obviously, the above judgment does not declare any law at all, but has been rendered on the basis of clear facts/evidence brought on record. If the factual position is exactly similar, it may be correct for the Petitioner to contend that the benefit flowing from the said judgment might be extended to him as well. This factual analysis was sought to be made when the learned counsel representing the 1<sup>st</sup> Respondent-State and the learned counsel representing the 2<sup>nd</sup> respondent made a specific reference to the materials brought on record as to the traits/credentials of the Petitioner. We find it appropriate to extract the same in toto, to have effective adjudication.

#### **"INFORMATION REGARDING JUDICIAL OFFICER**

1. Name of Judicial Officer : Shri Resham Lal Kurre
  2. Date of entry in Judicial Service : 03.04.1995
  3. Entries in the Confidential Reports:-
 

|                             |                                                  |
|-----------------------------|--------------------------------------------------|
| Year 1995-1996 Grade        | "D"                                              |
| Year 1996-1997 Grade        | "C"                                              |
| Year 1997-1998 Grade        | "C"                                              |
| Year 1998-1999 Grade        | "D" Adverse/Advisory remarks as per Annexure "A" |
| Year 1999-2000 Grade        | "C"                                              |
| Year 2000-2001 Grade        | "D" Adverse remarks as per Annexure "A"          |
| Year 2001-2002 Grade        | "D"                                              |
| Year 2002-2003 Grade        | "C"                                              |
| Year 2003-2004 Grade        | "C"                                              |
| Period 01-04-04 to 30-10-04 | "C"                                              |
| Year 2005-2006 Grade        | "D" (Recorded by District Judge)                 |
| Year 2006-2007 Grade        | "E"                                              |
| Year 2007-2008 Grade        | "D" Remarks as per Annexure "A"                  |
| Year 2008-2009 Grade        | "D" Remarks as per Annexure "A"                  |
| Year 2009-2010 Grade        | "C" Remarks as per Annexure "A"                  |
- Punishments, warnings etc. given by the High Court during the last 10 years:  
 On a complaint made by Shri Tularam Dewangan, the High Court has warned him to remain more cautious in future with regard to discharging Judicial duty.  
 (Communicated to him vide High Court Registry D.O. letter dated 20-06-1997)

#### **Annexure A**

#### **INFORMATION ABOUT ADVERSE/ADVISORY REMARKS IN A.C.R. OF SHRI RESHAM LAL KURRE**

##### **For the year 1998-99**

By the District Judge:-

Knowledge of Law & Judicial capacity: Average.

....he should improve percentage of monthly, daily units, improve disposal of Civil & Criminal.....

By Hon'ble the C.J.                      Average 'D'

**For the Year 2000-01**

By the District Judge:-

Knowledge of law and judicial capacity : Very poor.

Remarks about his promptness in the disposal of cases : Lack of promptness.

Remarks about supervision...over the subordinate staff : Not up to the mark.

Remarks about his attitude towards his superiors : Not so well.

Behaviour towards members of Bar & Public : Poor.

General reputation : Not satisfactory.

General Remarks : His Disposal is very poor. He may be advised to be more conversant with substantive and Procedural Law.

Shri Resham Lal Kurre

By Hon'ble the C.J

Should work harder. D—Average.

**For the Year 2007-08**

By District Judge -

Leadership Qualities – He should do hard work.

General assessment -

His procedural knowledge is inadequate.

**For the Year 2008-09**

By District Judge -

Knowledge of sphere of work – Not satisfactory.

Leadership qualities – He should do hard work.

General assessment – He should pay more attention to achieve target and good quality of work. He has not done periodically inspection of his Court.

**For the year 2009-10**

By District Judge -

Management Qualities – I found lack of willingness to assume responsibility."

**16.** We compared the above observations with the original file placed before us.

No inconsistency is noted in this regard. As rightly submitted by learned counsel representing the State and the learned standing counsel for the 2<sup>nd</sup> Respondent, most of the ratings given in respect to the different years is deplorably low, mostly being 'poor', 'very poor', 'average', with further remarks such as 'lack of promptness', 'not up to the mark', 'no so well', 'not satisfactory', 'disposal is very poor', 'to be advised to be more conversant with substantive and procedural law', 'not satisfactory', 'he should do hard work', 'he should pay more attention to achieve targets and quality of work',

'has not done periodical inspection', and such other things. It is also mentioned that there is 'lack of willingness to assume responsibility' with reference to the management qualities. The procedural knowledge has also been opined as 'inadequate' in respect of some of the relevant years, adding that the officer should work harder. These different traits have been evaluated and a proper finding has been rendered by the Committee constituted by the Hon'ble Chief Justice and thereafter by the Full Court leading to the resolution forming the basis for Annexure P/1. This was analyzed and appreciated by the Government leading to issuance of Annexure P/2 ordering compulsory retirement. This being the position, merely for the reason that the officer by name B.R.Pradhan was given same relief as per the judgment passed by this Court in WP(S) No. 459 of 2013 by itself does not come to the rescue of the Petitioner in any manner. It is clearly distinguishable on the basis of the facts and the findings involved.

17. Coming to the other relevant aspects as specifically dealt with by the Apex Court, the learned counsel for the Petitioner asserts that there is nothing on record to deprecate the conduct and behaviour of the Petitioner as a person having no sufficient or lesser 'integrity', it is stated that there is no such case for the State or the High Court as well and there was no instance when the Petitioner was called upon to answer anything with regard to the 'integrity'. This being the question, he cannot be treated as a 'deadwood' to be sent out from the main stream, virtually terminating his service for ever; submits the learned counsel for the Petitioner. But then, the point to be looked into is not the 'integrity' alone but various other aspects as well, particularly the 'utility of the person' in service and the public good in this regard.
18. The Apex Court in ***Rajendra Singh Verma*** (supra) held that it is for the High Court to take appropriate steps regularly for weeding out the undesirable elements as a cleansing measure and there cannot be any

compromise in this regard. It has also been made clear that judicial review is permissible only in extraordinary cases when the court is convinced that some real injustice which ought not to have taken place has really happened and not merely because there could be another possible view or some one has any grievance about the exercise undertaken by the authority concerned. It is further made clear that the power and jurisdiction of this Court to quash the order of compulsory retirement should only be on specific grounds; such as (a) the requisite opinion has not been formed; or (b) decision is based on collateral grounds; or (c) it is an arbitrary decision.

19. On going through the entire proceedings and pleadings forming part of the file, we could not find existence of any of the said grounds so as to call for interference. As mentioned already, the most crucial aspects which have been discussed by the Apex Court in paragraphs 161, 183, 191 are reproduced hereinbelow for easy reference.

"161. In *Baikuntha Nath Das case* [(1992) 2 SCC 299 : 1993 SCC (L&S) 521 : (1992) 21 ATC 649], after referring to the decision of this Court in *Brij Mohan Singh Chopra v. State of Punjab* [(1987) 2 SCC 188 : (1987) 3 ATC 496], wherein a three-Judge Bench of this Court has specifically affirmed the decision rendered in *Union of India v. M.E. Reddy* [(1980) 2 SCC 15 : 1980 SCC (L&S) 179], this Court has laid down following firm propositions of law stated in para 34 of the reported decision: (*Baikuntha Nath Das case* [(1992) 2 SCC 299 : 1993 SCC (L&S) 521 : (1992) 21 ATC 649], SCC pp. 315-16)

"34. The following principles emerge from the above discussion:

- (i) An order of compulsory retirement is not a punishment. It implies no stigma nor any suggestion of misbehaviour.
- (ii) The order has to be passed by the Government on forming the opinion that it is in the public interest to retire a government servant compulsorily. The order is passed on the subjective satisfaction of the Government.
- (iii) Principles of natural justice have no place in the context of an order of compulsory retirement. This does not

mean that judicial scrutiny is excluded altogether. While the High Court or this Court would not examine the matter as an appellate court, they may interfere if they are satisfied that the order is passed (a) *mala fide*, or (b) that it is based on no evidence, or (c) that it is arbitrary—in the sense that no reasonable person would form the requisite opinion on the given material; in short, if it is found to be a perverse order.

(iv) The Government (or the Review Committee, as the case may be) shall have to consider the entire record of service before taking a decision in the matter—of course attaching more importance to record of and performance during the later years. The record to be so considered would naturally include the entries in the confidential records/character rolls, both favourable and adverse. If a government servant is promoted to a higher post notwithstanding the adverse remarks, such remarks lose their sting, more so, if the promotion is based upon merit (selection) and not upon seniority.

(v) An order of compulsory retirement is not liable to be quashed by a court merely on the showing that while passing it uncommunicated adverse remarks were also taken into consideration. That circumstance by itself cannot be a basis for interference.

Interference is permissible only on the grounds mentioned in Principle (iii) above.”

**183.** It is well settled by a catena of decisions of this Court that while considering the case of an officer as to whether he should be continued in service or compulsorily retired, his entire service record up to that date on which consideration is made has to be taken into account. What weight should be attached to earlier entries as compared to recent entries is a matter of evaluation, but there is no manner of doubt that consideration has to be of the entire service record. The fact that an officer, after an earlier adverse entry, was promoted does not wipe out earlier adverse entry at all. It would be wrong to contend that merely for the reason that after an earlier adverse entry an officer was promoted that by itself would preclude the authority from considering the earlier adverse entry. When the law says that the entire service record has to be taken into

consideration, the earlier adverse entry, which forms a part of the service record, would also be relevant irrespective of the fact whether the officer concerned was promoted to higher position or whether he was granted certain benefits like increments, etc.

**191.** Further, in case where the Full Court of the High Court recommends compulsory retirement of an officer, the High Court on the judicial side has to exercise great caution and circumspection in setting aside that order because it is a complement of all the Judges of the High Court who go into the question and it is possible that in all cases evidence would not be forthcoming about integrity doubtful of a judicial officer. As observed by this Court in *High Court of Punjab & Haryana v. Ishwar Chand Jain* [(1999) 4 SCC 579 : 1999 SCC (L&S) 881] , at times, the Full Court has to act on the collective wisdom of all the Judges and if the general reputation of an employee is not good, though there may not be any tangible material against him, he may be given compulsory retirement in public interest and judicial review of such order is permissible only on limited grounds. The reputation of being corrupt would gather thick and unchaseable clouds around the conduct of an officer and gain notoriety much faster than the smoke. Sometimes there may not be concrete or material evidence to make it part of the record. It would, therefore, be impracticable for the reporting officer or the competent controlling officer writing the confidential report to give specific instances of shortfalls, supported by evidence."

- 20.** By virtue of the declaration of law as aforesaid, this Court is of the view that the Petitioner has not succeeded in establishing a case for interference.
- 21.** Coming to the subsequent decision rendered by the Apex Court in ***R.C.Chandel*** (supra), it was also a case involving compulsory retirement of judicial officers invoking similar power vested in this regard. It is true that the Apex Court held that the entire service record and the overall profile of the judicial officer is to be considered. At the same time, it was held that the adverse remarks, although followed by promotion and grant of higher scale do not wipe out earlier adverse entries which have remained on record and continued to hold the field. The Apex Court made it clear that the criteria for promotion or grant of increment or higher scale differ from the norms to

assess a judicial officer's continued utility to the judicial system. The extent and applicability of the principles of natural justice was also the subject matter considered by the Apex Court in the said case and it has been categorically held that the said principles will stand excluded to the said extent as mentioned therein. Paragraphs 25, 26 and 29, which are relevant in this context are reproduced as given below:

**"25.** From the above, it is clear that the appellant did not have unblemished service record all along. He has been graded "Average" on quite a few occasions. He was assessed "Poor" in 1993 and 1994. His quality of judgments and orders was not found satisfactory on more than one occasion. His reputation was observed to be tainted on few occasions and his integrity was not always found to be above board. In 1988-1989, the remark reads, "never enjoyed clean reputation". In 1993, the remark "his reputation was not good" and in 1994 the remark "officer does not enjoy good reputation", were recorded. His representations for expunction of these remarks failed. The challenge to these remarks on judicial side was unsuccessful right up to this Court. In 1993, it was also recorded that quality of performance of the appellant was poor and his disposals were below average. In 1994, the remark in the service record states that the performance of the appellant qualitatively and quantitatively has been poor. With this service record, can it be said that there existed no material for an order of compulsory retirement of the appellant from service? We think not. The above material amply shows that the material germane for taking decision by the Full Court whether the appellant could be continued in judicial service or deserved to be retired compulsorily did exist. It is not the scope of judicial review to go into adequacy or sufficiency of such materials.

**26.** It is true that the appellant was confirmed as District Judge in 1985; he got lower selection grade with effect from 24-3-1989; he was awarded super timescale in May 1999 and he was also given above super timescale in 2002 but the confirmation as District Judge and grant of selection grade and super timescale do not wipe out the earlier adverse entries which have remained on record and continued to hold the field. The criterion for promotion or grant of increment or higher scale is different from an exercise which is undertaken by the High Court to assess a judicial officer's continued utility to the

judicial system. In assessing potential for continued useful service of a judicial officer in the system, the High Court is required to take into account the entire service record. Overall profile of a judicial officer is the guiding factor. Those of doubtful integrity, questionable reputation and wanting in utility are not entitled to benefit of service after attaining the requisite length of service or age.

**29.** Judicial service is not an ordinary government service and the Judges are not employees as such. Judges hold the public office; their function is one of the essential functions of the State. In discharge of their functions and duties, the Judges represent the State. The office that a Judge holds is an office of public trust. A Judge must be a person of impeccable integrity and unimpeachable independence. He must be honest to the core with high moral values. When a litigant enters the courtroom, he must feel secured that the Judge before whom his matter has come, would deliver justice impartially and uninfluenced by any consideration. The standard of conduct expected of a Judge is much higher than an ordinary man. This is no excuse that since the standards in the society have fallen, the Judges who are drawn from the society cannot be expected to have high standards and ethical firmness required of a Judge. A Judge, like Caesar's wife, must be above suspicion. The credibility of the judicial system is dependent upon the Judges who man it. For a democracy to thrive and the rule of law to survive, justice system and the judicial process have to be strong and every Judge must discharge his judicial functions with integrity, impartiality and intellectual honesty."

- 22.** From paragraph 25, it is clear that several entries rating the performance of the Petitioner concerned as 'poor', 'average', etc. has been dealt with holding that such person requires to be weeded out as not an officer of utility. Same is reiterated in the next paragraph as well. Three different circumstances under which the profile of the judicial officer is to be examined have been mentioned therein which included 'doubtful integrity', 'questionable reputation' and 'wanting in utility'. These are three different segments and as such, merely for the reason that there is no challenge or threat with regard to the 'integrity' of the Petitioner by itself cannot come to his rescue to hold that the relevant aspects have not been considered by

this Court or by the Government. There is no plausible answer with regard to the various remarks with reference to the performance or in other words, the utility to the system and as such, even if the Petitioner may be having a proper integrity track record, it will not save him, if he otherwise is not suitable to be continued in service beyond the stipulated period of service/age concerned. The compulsory retirement of the Petitioner is obviously not with reference to anything with regard to 'integrity' but with regard to his 'level of performance/utility'.

23. Insofar as there is no challenge with regard to the 'merit rating', particularly as to the capacity by proficiency or utility of the Petitioner, the factual finding rendered in this regard, as supported by the relevant documents, is not liable to be interfered by this Court.
24. While summing up the argument, the learned counsel for the Petitioner also cited a judgment rendered by a three member Bench of the Supreme Court in ***High Court of Judicature of Patna, Through Registrar General v. Shyam Deo Singh & Others***; (2014) 4 SCC 773. We have gone through the said verdict as well. The factual position is discernible from paragraph 5 of the said judgment and elsewhere, as to the basic issue involved with reference to the registration of a criminal case and disturbing reports about the integrity of the person concerned. It does not deal with anything with regard to the other relevant aspects which also weigh much while considering the desirability of the person concerned to be continued in service as involved in the instant case. Based on relevant materials available, the Apex Court held that there was no material to sustain the finding on the 'integrity' of the person concerned. In the instant case, as mentioned already, the compulsory retirement is not with reference to anything relating to the 'integrity' of the Petitioner but the 'performance/work capacity/utility' of the Petitioner to the system, based on the relevant entries in the ACRs. Hence, the verdict cited supra is not applicable.

- 25.** Lastly, it is to be noted that the compulsory retirement with reference to the mandate of Rule 13(2) of the Rules can never be regarded as a punishment imposed in disciplinary proceedings. The Petitioner is entitled to get all the service benefits to the extent he has served the institution. Whether his continuance in the service beyond the stipulated age or service, as the case may be, alone is the relevant question and this has been considered and answered by this Court and also by the Government taking a conscious decision not to extend the service in view of the limited/restricted output. As the matter stands so, we are of the firm view that this is not a fit case to call for interference. The challenge raised against the orders Annexure P/1 and P/2 fails. The writ petition stands dismissed accordingly.
- 26.** The personal confidential file (original) produced by the 2<sup>nd</sup> Respondent for perusal of this Court will stand returned to the standing counsel.

Sd/-  
( P.R. Ramachandra Menon)  
**CHIEF JUSTICE**

Sd/-  
(Prashant Kumar Mishra)  
**JUDGE**