



\$~9

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

%

Judgment delivered on: 20.05.2022

+ W.P.(C) 2574/2020 and CM Nos. 8952/2020 & 8956/2020

R.R. MEENA (RAM ROOP MEENA)

..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION
AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner:

Mr. M.K. Bhardwaj, Ms. Alisha Saini and Ms. Ridam Arora, Advocates

For the Respondent:

Mr. Arun Birbal and Mr. Sanjay Singh, Advocates for R-1/SDMC

Mr. Anand Prakash, Standing Counsel with Ms. Varsha Arya and Mr. Akhil Raj, Advocates for R-6/NDMC

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns judgment dated 28.01.2020 in O.A. 2944/2019 and further seeks quashing and setting aside of order dated 13.09.2019 whereby Petitioner was directed to be compulsorily retired



and further seeks reinstatement with all consequential benefits.

2. Petitioner had been appointed as Assistant Engineer (Civil) in Municipal Corporation of Delhi in 1998. At the relevant time of passing of the impugned order of compulsory retirement, he had risen to the rank of Executive Engineer (Civil).

3. By order dated 13.09.2019, Competent Authority in exercise of the powers conferred by Fundamental Rule (FR for short) 56(j) and Rule 48 of CCS (Pension) Rules, 1972 directed compulsory retirement of the Petitioner with immediate effect.

4. An Internal Review Committee was constituted to consider the report of the Vigilance Department with regard to several officers. The Internal Review Committee in its decision taken on 13.09.2019, *inter alia*, recommended that in cases of officials against whom, in their entire service, two or three major penalties had been imposed, be made to compulsorily retire.

5. As per the Respondents, Petitioner fell in the said category where more than two major penalties had been imposed. The “*Review of Mechanism to ensure probity of Government servants and strengthening of Administration by undertaking periodic review under FR 56(j) and Rule 48 of CCS (Pension) Rules, 1972*” was undertaken and in respect of the Petitioner, the recommendation was to



compulsorily retire the Petitioner from service.

6. Learned counsel for the Petitioner, *inter alia*, submits that the Respondents could not have adopted the procedure of taking the entire career into account but should have restricted it to a maximum period of five years during which period Petitioner had exemplary service and had even been promoted.

7. Learned counsel, however, without prejudice, submits that even if the three alleged major penalties were taken into account, Petitioner had been exonerated in two and in respect of third, the major penalty has been converted by the Central Administrative Tribunal into a minor penalty.

8. Learned counsel relies on an office order dated 22.10.2020 passed by the Commissioner, South Delhi Municipal Corporation wherein the Commissioner has dropped the charges which were emanating from the charge-sheet dated 26.11.2009. He submits that the Commissioner by order dated 16.08.2021 (signed on 12.08.2021) has quashed the penalty order dated 03.05.2007 on the ground of the incompetence of the officer who had imposed the penalty.

9. Further, learned counsel relies on the decision of the Central Administrative Tribunal dated 05.11.2020 in O.A. 4513/2017 whereby the Tribunal has modified the penalty to the extent that it



would be without cumulative effect, which implies that the punishment has been converted from major penalty to minor penalty.

10. Learned counsel for the Petitioner thus contends that in view of the above referred three orders, two office orders of the Commissioner and the third of the Central Administrative Tribunal, the very substratum of the order passed against the Petitioner for compulsory retirement has been removed and consequently, the order of compulsory retirement is no longer sustainable.

11. In view of the fact that two of the orders imposing major penalties have been set aside by the Commissioner himself and the third order imposing major penalty has been converted into an order imposing minor penalty, we are of the considered view that the Respondent/Corporation needs to re-examine the case of the Petitioner and to reconsider as to whether the Petitioner still falls in the category of cases where order of compulsory retirement should have been passed.

12. This order of remit is being passed in view of the fact that in the periodic review undertaken on 13.09.2019, there were instances where there were some officers who had less than two major penalties or no major penalty and a different view was taken by the Corporation qua the said officers.



13. In view of the above, this petition, along with the pending applications is disposed of directing the Respondents to pass a fresh speaking order, within a period of six weeks from today.

14. All rights and contentions of the parties are reserved. It would be open to the Petitioner to avail of his remedy in accordance with law, if aggrieved, by any subsequent order passed by the Corporation.

15. Order *dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

TUSHAR RAO GEDELA, J

MAY 20, 2022

‘yg’