



W.P.No.16657 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.03.2024

PRONOUNCED ON : 15.03.2024

CORAM

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

W.P.No.16657 of 2020
and
W.M.P.No.20653 of 2020

G.Kalavathi

... Petitioner

Vs.

1. The Chief Secretary to Government,
Secretariat, Fort St.George, Chennai - 600 009.

2. The Registrar General,
High Court, Madras,
High Court Buildings, Chennai- 600 104.

... Respondent

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to impugned orders passed by the 1st respondent in G.O.MS.No.474 Public (Special.A) Department dated 23.09.2020 and the consequential order passed by the 2nd respondent in notification No.113 of 2020 and the O.M in R.O.C.No.4021/2019/b1/Spl.Cell dated 29.09.2020 and to quash the same and consequentially direct the respondents to reinstate the petitioner in service as District Judge with all consequential and other attendant benefits.



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For Petitioner : Mr.R.Abdul Mubeen
For Respondent : Mr.T.Chandra Sekaran
Special Government Pleader (for R1);
Mr.V.Ayyadurai, Senior Counsel
for Mr.A.Durai Eswar (for R2)

ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

The lis on hand has been instituted challenging the order of Compulsory retirement in public interest, issued by the first respondent in G.O.Ms.No.474 Public (Special.A) Department dated 23.09.2020 and the consequential order passed by the 2nd respondent in notification No.113 of 2020 dated 29.09.2020. Further direction is sought for to reinstate the petitioner with all consequential and attendant service benefits.

Petitioner's Case:

2. The petitioner was appointed as Civil Judge (Junior Division) on 02.03.1998. She was promoted as Sub-Judge (Civil Judge, Senior Division) on 16.09.2009. Subsequently, she was promoted as District Judge with effect from 14.09.2015. The petitioner was holding the post of Principle Sub-Judge at Coimbatore for the period between 19.01.2015 and 12.09.2015.



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3. One C.S.Arumugham Pillai who owned large extent of properties in prime locality of Coimbatore City had executed a Will dated 29.08.1932 dedicating 'A' & 'B' Schedule properties to the Mahaliamman Temple and Vigneswarar Koil creating life estate to his wife Sadachiammal in respect of 'A' Schedule properties. His only son Manickam Pillai had predeceased leaving behind his parents and his wife Vijayammal. The said Arumugham Pillai died in 1946. The said Vijayammal filed a suit in O.S.No.191 of 1937 claiming maintenance against Arumugham Pillai which was decreed on 26.10.1938 creating a charge on the properties. The Temples filed a suit against the said Vijayammal based on the Will of Arumugham Pillai dated 29.08.1932 in O.S.No.344 of 1967 on the file of the Sub-Court, Coimbatore for a declaration of Title to the plaint 'A' & 'B' Schedule properties. 'A' Schedule property consisted of seven items and there were two items in the 'B' Schedule properties. The Suit was dismissed and the Appeal filed in A.S.No.12 of 1977 was also dismissed holding that the subject properties were subject to the charge towards maintenance of Vijayammal vide decree in O.S.No. 191 of 1937 dated 26.10.1938 and hence the said properties had enlarged into absolute property of Vijayammal in terms of Section 14 (1) of the Hindu Succession Act, as she



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had a pre-existing right. As against the same, the Temple/1" Defendant filed C.A.No.8607 of 1983 before the Supreme Court. Pending the said Civil Appeal, Vijayammal died leaving an unregistered Will dated 30.06.1986 bequeathing her properties in favour of the children of her sister Maragathammal after creating life estate to the said Maragathammal. The said beneficiaries under the Will were brought on record as legal representatives of Vijayammal in C.A.No.8607 of 1983. It has been specifically observed in the Order made in C.A.No.8607 of 1983 that the validity of the Will of the Vijayammal and Sadachiammal dated 08.06.1957 has not been decided. The beneficiaries under the Will who were brought on record as legal representatives of deceased Vijayammal were objected to as total strangers to the family. The competency of Arumugham Pillai to execute the Will, though was observed as a moot question, the Apex Court passed Final Order in C.A.No.8607 of 1983 by consent of counsels appearing for both parties to the effect that a sum of Rs.24,000/- shall be paid to the Temples by the person or persons who are entitled to 'A' & 'B' Schedule properties and the said properties shall stand charged to that extent. It has been specifically stated in the Order of the Apex Court dated 01.03.1996 that the validity of and the nature of the interest that had been created by the Will executed by the Sadachiammal



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and Vijayammal was not decided. From the above, it is clear that dedication of 'A' & 'B' Schedule properties under the Will of Arumugham Pillai dated 29.08.1932 in favour of the Temples was not decided nor the findings of the Trial Court and the High Court were confirmed, but a consent decree of creating charge over 'A' & 'B' Schedule properties for the payment of Rs.24,000/- every year to the Temples was passed.

4. When the petitioner was working as Principal Sub Judge at Coimbatore from 19.01.2015 to 12.09.2015 she had decreed the suit in O.S.No. 1049 of 2013 by virtue of Judgement & Decree dated 18.02.2015 whereby the plaintiffs therein were granted the permission to sell the 'B' Schedule properties on condition to deposit Rs.10 lakhs by way of Fixed Deposit in Nationalized Bank and to pay Rs.24,000/- per annum to the Temples and the balance of interest would be re-deposited, thereby modifying the Judgement of the Supreme Court dated 01.03.1996 rendered in the earlier litigation in respect of the same properties in C.A.No.8607 of 1983. The plaintiffs therein claimed to be the beneficiaries under the Will of Vijayammal dated 30.06.1986, the validity of which was not decided by the Apex Court in the earlier round of litigation in C.A.No.8607 of 1983. However, the petitioner upheld the said



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Will by relying on the Order passed in claim petition filed in I.A.No.626 of 1988 in O.S.No.1179 of 1987 on the file of District Munsif Court at Trichy, in the absence of proof of the said Will in the manner known to law despite specific denial by the Temples/Defendants in O.S.No.1049 of 2013.

5. The Temples/Defendants having been aggrieved by the Judgement & Decree passed by the petitioner in O.S.No.1049 of 2013 preferred A.S.No.75 of 2015 and the plaintiffs therein filed Cross Appeal No.75 of 2015 on the file of the 1st Additional District & Sessions Judge at Coimbatore. The Lower Appellate Court set-aside the Judgement & Decree made in O.S.No.1049 of 2013 dated 18.02.2015 by allowing the Appeal filed by the Temples holding that the aforementioned Will dated 30.06.1986 under which the plaintiffs claimed right was not proved by following the procedure contemplated under the Indian Succession Act and the Indian Evidence Act. As such, the finding of the Trial Court that the Plaintiffs have proved the Will on the basis of the Order made in an I.A. in another suit wherein the validity of the said Will was not an issue, is perverse. It was also held that the very entertainment of the suit and decree in O.S.No. 1049 of 2013 by the Trial Court, modifying the



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Judgement of the Apex Court would amount to miscarriage of justice and that the plaintiffs in O.S.No. 1049 of 2013 are not the legal representatives of the suit properties. On that premises, the Cross Appeal filed by the plaintiffs with regard to decree passed pertaining to the charge over the plaint 'A' Schedule property, was also dismissed.

6. The aggrieved Plaintiffs filed Second Appeal before this Hon'ble Court in S.A.No.166 of 2019 which was dismissed on 04.04.2019 with a direction to the Registry to call for explanation from the petitioner as to how she entertained the suit and decreed the same, thereby removing the charge which was created by the Judgement of the Apex Court in the earlier round of litigation in respect of the same properties in C.A.No.8607 of 1983 dated 01.03.1996. Accordingly, a Memo dated 18.07.2019 was issued to the petitioner calling upon her explanation. The petitioner was permitted to peruse the said case records in the Principal District Court, Coimbatore on 22.11.2019 and thereafter, the petitioner submitted her explanation dated 14.02.2020 inter- alia contending that she had bonafidely passed the Judgment & Decree in O.S.No.1049 of 2013 dated 18.02.2015 in order to protect the interest of the Temples by taking into consideration subsequent changes and that the error of Judgment may be



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pardoned.

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7. The said explanation of the petitioner was placed before the Hon'ble Administrative Committee of this Hon'ble Court as per the Order of the Hon'ble the then Chief Justice dated 05.05.2020. On 22.05.2020 the Hon'ble Administrative Committee of this Hon'ble Court considered the explanation of the petitioner as also reviewed her Service Career for continuance as Judicial Officer having completed the age of 50 years simultaneously and resolved that her explanation was not found to be satisfactory. With regard to the review of her service career, it was resolved that there were sufficient and reasonable grounds to believe that it would be inappropriate to continue the petitioner in service beyond the age of 50 years in public interest. The said resolution not to continue the service of the petitioner was duly approved by the Hon'ble Full Court of this Hon'ble Court in the Meeting held on 03.07.2020.”

8. The decision of the Hon'ble Full Court was communicated to the Government/Appointment Authority to pass an order retiring the petitioner compulsorily from service in public interest, under fundamental rules 56(2), with effect from the date of service of such Government Order, in payment of three (3) months pay and allowances in lieu of three



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months notice. The Government having accepted the recommendation of the High Court, passed G.O.Ms.No.474 Public Department dated 23.09.2020, directing the petitioner to compulsorily retire with effect from the date of service of the said Government Order. Consequently, Notification No.113 of 2020, dated 29.09.2020, was issued to the petitioner enclosing a cheque dated 29.09.2020, for three months pay and allowances in lieu of three months notice and relieved her from service.

9. The learned counsel for the petitioner, Mr.R.Abdul Mubeen would submit that the materials available on record would be insufficient to compulsorily retire the petitioner in public interest. She has not committed any negligence or dereliction of duty, while dealing with the civil litigations. The incidents as narrated in the matter of O.S.No.1049 of 2013 and A.S.No.75 of 2015 are connected with a particular civil case and such isolated incident cannot be a ground to compulsorily retire a Judicial Officer from service in public interest.

10. Mr.R.Abdul Mubeen would mainly contend that the impugned order in the present case is punitive in nature and therefore, untenable. There was no charges pending against the petitioner with regard to her



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integrity and honesty. She dealt with the Civil Suit and delivered judgement on 18.02.2015 in O.S.No.1049 of 2013, in her capacity as Principle Sub-Judge Coimbatore, which cannot be a ground to compulsorily retire the petitioner in public interest, invoking rule 56(2) of the fundamental rights.

11. The writ petitioner was promoted to the post of District Judge on the basis of merit cum seniority. Therefore, the respondents found that the petitioner was eligible for promotion to the post of District Judge. Having granted promotion, the administration cannot turn around and invoke Fundamental Rule 56(2) and compulsorily retire the petitioner in public interest. At the outset, there are no materials and the materials relied on by the respondent would be insufficient to compulsorily retire the petitioner in public interest.

12. To substantiate the grounds, Mr.R.Abdul Mubeen relied on the judgement of the Hon'ble Supreme Court in the case of ***High Court of Judicature at Patna vs. Ajay Kumar Srivastava and others, reported in (2017) 5 SCC 138*** and the relevant paragraphs are extracted hereunder:

“13. It all boils down to this that there are serious allegations of misconduct on the part of the



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first respondent. If that is the case, the appellant is always at liberty to take appropriate disciplinary action against the respondent which action according to us, the High Court is duty-bound to take. If the officer whose conduct is questionable warranting his removal or compulsory retirement from the service, such an officer cannot simply be sent home with all the retiral benefits. But at the same time, if an officer is to be retired on the ground that his conduct is unwholesome, he is entitled to claim that the due process of law be followed.”

13. In the case of ***Baldev Raj Chadha v. Union of India [(1980) 4 SCC 321 : 1981 SCC (L&S) 1 : (1981) 1 SCR 430]*** this Court observed as follows: [SCC p. 329 : SCC (L&S) p. 9, para 161]

“One wonders how an officer whose continuous service for 14 years crossing the efficiency bar and reaching the maximum salary in the scale and with no adverse entries at least for five years immediately before the compulsory retirement, could be cashiered on the score that long years ago, his performance had been poor, although his



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superiors had allowed him to cross the efficiency bar without qualms A short cut may often be a wrong cut. The order of compulsory retirement fails because vital material, relevant to the decision, has been ignored and obsolete material, less relevant to the decision, has influenced the decision. Any order which materially suffers from the blemish of overlooking or ignoring, wilfully or otherwise, vital facts bearing on the decision is bad in law. Likewise, any action which irrationally digs up obsolete circumstances and obsessively reaches a decision based thereon, cannot be sustained.”

14. In the case of ***Baldev Raj Chadha vs. Union of India and others, reported in (1980) 4 SCC 321***, the Apex Court held as follows:

“8. ... The exercise of power must be bona fide and promote public interest. There is no demonstrable ground to infer mala fides here and the only infirmity alleged which deserves serious notice is as to whether the order has been made in public interest. When an order is challenged and its validity depends on its being supported by public interest the State must disclose the material so



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that the court may be satisfied that the order is not bad for want of any material whatever which, to a reasonable man reasonably instructed in the law, is sufficient to sustain the grounds of “public interest” justifying forced retirement of the public servant. Judges cannot substitute their judgment for that of the Administrator but they are not absolved from the minimal review well settled in administrative law and founded on constitutional obligations. The limitations on judicial power in this area are well known and we are confined to an examination of the material merely to see whether a rational mind may conceivably be satisfied that the compulsory retirement of the officer concerned is necessary in public interest.”

Reply by the 2nd Respondent:

15. The learned Senior counsel, Mr.V.Ayyadurai, appearing on behalf of the second respondent, would oppose the contentions raised by the petitioner by stating that the respondents have considered the entire service records of the petitioner and arrived at a decision to compulsorily retire the petitioner in public interest. The manner in which the petitioner passed decree in the civil case, the suspicious circumstances and the factual inferences resulted to review the case of the petitioner. The Hon'ble Administrative Committee of the High Court, considered the



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explanations given by the petitioner in respect of the Judgement passed in O.S.No.1049 of 2013 dated 18.02.2015. While considering the explanation, submitted by the writ petitioner, Hon'ble Administrative Committee of the High Court reviewed her service records for continuance as Judicial Officer, having completed the age of 50 years and simultaneously resolved that her explanations was not found to be satisfactory.

16. The Administrative Committee further considered the entire service records of the petitioner and resolved that there were sufficient and reasonable grounds to believe that it would be inappropriate to continue the petitioner in service beyond the age of 50 years in public interest. The resolution, not to continue the service of the petitioner, passed by the Hon'ble Administrative Committee, was duly approved by the Hon'ble Full Court in the meeting held on 03.07.2020. Thus, the procedures and the processes required for invoking F.R.56(2) were scrupulously followed. The past and present records, as well as the performance benchmark of the petitioner as “Average” during previous years and her suspicious integrity were considered by the Hon'ble Administrative Committee and the resolution passed by the Administrative Committee was approved by the



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Full Court.

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17. In support of the contentions, learned Senior Counsel, Mr.V.Ayyadurai, relied on the Judgement of the Hon'ble Supreme Court of India, in the case of ***All India Judges' Association and others vs. Union of India and others, reported in (1993) 4 SCC 288***, wherein the Apex Court made the following orders:

“30. There is, however, one aspect we should emphasise here. To that extent the direction contained in the main judgment under review shall stand modified. The benefit of the increase of the retirement age to 60 years, shall not be available automatically to all judicial officers irrespective of their past record of service and evidence of their continued utility to the judicial system. The benefit will be available to those who, in the opinion of the respective High Courts, have a potential for continued useful service. It is not intended as a windfall for the indolent, the infirm and those of doubtful integrity, reputation and utility. The potential for continued utility shall be assessed and evaluated by appropriate Committees of Judges of the respective High Courts constituted and headed by the Chief Justices of the High Courts and the evaluation shall be made on the basis of the judicial officer's past record of



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service, character rolls, quality of judgments and other relevant matters.

31. The High Court should undertake and complete the exercise in case of officers about to attain the age of 58 years well within time by following the procedure for compulsory retirement as laid down in the respective Service Rules applicable to the judicial officers. Those who will not be found fit and eligible by this standard should not be given the benefit of the higher retirement age and should be compulsorily retired at the age of 58 by following the said procedure for compulsory retirement. The exercise should be undertaken before the attainment of the age of 58 years even in cases where earlier the age of superannuation was less than 58 years. It is necessary to make it clear that this assessment is for the purpose of finding out the suitability of the concerned officers for the entitlement of the benefit of the increased age of superannuation from 58 years to 60 years. It is in addition to the assessment to be undertaken for compulsory retirement and the compulsory retirement at the earlier stage/s under the respective Service Rules.”

18. In the case of ***Arun Kumar Gupta vs. State of Jharkhand and another, reported in (2020) 13 SCC 355***, the Apex Court held as follows:



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“17. The law on the subject of compulsory retirement, especially in the case of judicial officers may be summarised as follows:

17.1. An order directing compulsory retirement of a judicial officer is not punitive in nature.

17.2. An order directing compulsory retirement of a judicial officer has no civil consequences.

17.3. While considering the case of a judicial officer for compulsory retirement the entire record of the judicial officer should be taken into consideration, though the latter and more contemporaneous record must be given more weightage.

17.4. Subsequent promotions do not mean that earlier adverse record cannot be looked into while deciding whether a judicial officer should be compulsorily retired.

17.5. The “washed-off” theory does not apply in case of judicial officers specially in respect of adverse entries relating to integrity.

17.6. The courts should exercise their power of judicial review with great circumspection and restraint keeping in view the fact that compulsory retirement of a judicial officer is normally directed on the recommendation of a high-powered committee(s) of the High Court.”



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19. In the case of *Aureliano Fernandes vs. State of Goa and others*, reported in (2024) 1 SCC 632, the Hon'ble Supreme Court held as follows:

“(a) Scope of interference by the High Court in judicial review

63. It may be clarified at the outset that to satisfy itself that no injustice has been meted out to the appellant, the High Court was required to examine the decision-making process and not just the final outcome. In other words, in exercise of powers of judicial review, the High Court does not sit as an appellate authority over the factual findings recorded in the departmental proceedings as long as those findings are reasonably supported by evidence and have been arrived at through proceedings that cannot be faulted on account of procedural illegalities or irregularities that may have vitiated the process by which the decision was arrived at.”

20. Relying on the above judgements, Mr.Ayyadurai would submit that the present case deserves no interference from the hands of his Court since the entire service records, right from the date of appointment of the petitioner, has been considered by the Hon'ble Administrative Committee, while taking a decision and the decision was approved by the Full Court.



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Once the high level committee found that the integrity of the Judicial Officer is doubtful and suspicious, the case would be squarely falling under the ambit of Fundamental Rule 56(2). Thus, the writ petition is to be rejected.

Reply by the 1st Respondent:

21. The learned Special Government Pleader, Mr.T.Chandra Sekaran, appearing on behalf of the first respondent, adopted the arguments advanced by Mr.Ayyadurai, learned Senior Counsel for the second respondent. The learned Special Government Pleader would submit that the facts / materials submitted before the Government along with the resolution of the Hon'ble Administrative Committee, as approved by the Full Court, were considered by the Government and accordingly, decided to implement the decision taken by the Administrative Committee and the Full Court. The service records of the petitioners were considered in entirety and the high level Committee of the High Court arrived at a conclusion that the integrity of the petitioner is doubtful. Her entire service record shows that her continuance in judicial service will be against public interest. Thus, the Government passed the order accepting the decision of the High Court and compulsorily retired the petitioner in



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public interest.

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Discussions:

22. We have considered the pleadings and the arguments of the respective parties to the lis on hand. Recently, Hon'ble Supreme Court in the case of *Aureliano Fernandes vs. State of Goa and others, reported in (2024) 1 SCC 632*, crystallised the scope of inference by the High Court in Judicial review. Though principles are settled, the Apex Court reiterated the High Court to satisfy itself, that no injustice has been metted-out to the persons. **The High Court is required to examine the decision making process and not just final outcome.** The High Court does not sit as an appellate authority over the factual findings recorded in the departmental proceedings, as long as those findings are reasonably supported by evidence and have been arrived at true proceedings that cannot be faulted on account of procedural irregularities, that may have vitiated the process by which decision was arrived at. The purpose of judicial review is not only to ensure that the individual concerned receives fair treatment, but also to ensure that the Authority, after according fair treatment, reaches a conclusion which is correct in the eye of law.



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23. In the present case, the Annual Confidential report of the writ petitioner as furnished by the second respondent reveals the following entries:



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ANNUAL CONFIDENTIAL REPORT
TMT. G. KALAVATHI

02.03.1998 to 31.12.1998

"Seen"

"Satisfactory"

Sd/ACJ/16.04.1999

01.01.1999 to 31.12.1999

"Seen"

Sd/CJ/13.09.2000

01.01.2000 to 01.05.2000

"No remarks"

Sd/KSJ/29.08.2001

"Seen"

Sd/CJ/29.08.2001

02.05.2000 to 30.09.2000

"Satisfactory"

Sd/KSJ/29.08.2001

"Seen"

Sd/CJ/29.08.2001

01.10.2000 to 31.12.2000

"Satisfactory"

Sd/KSJ/29.08.2001

"Seen"

Sd/CJ/29.08.2001

01.01.2001 to 30.04.2001

"Endorse the remarks of District Judge"

Sd/SJ/16.08.2002

Remarks of the PDU:

"Satisfactory"

Sd/CJ/



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ANNUAL CONFIDENTIAL REPORT

TMT. G. KALAVATHI

01.06.2001 to 30.09.2001

"Seen"

Sd/VSSJ/03.09.2002

Remarks of the Principal District Judge:

I) Reputation as to :

- | | |
|-----------------|--------------|
| a) Honesty | "To improve" |
| b) Integrity | |
| c) Impartiality | |

II) Overall view : "Can improve a lot"

Sd/CJ

- Adverse remarks communicated to the officer on 07.10.2002.

01.10.2001 to 31.12.2001

I) Promptitude in disposal of old cases : "try to dispose old cases"

II) Reputation as to :

- | | |
|-----------------|----------------------|
| a. Honesty | "has to be improved" |
| b. Integrity | |
| c. Impartiality | |

III) Overall view :

Sd/KGJ/28.12.2002

Sd/CJ

-Adverse remarks communicated to the officer on 04.02.2003.

01.01.2002 to 31.12.2002

"I endorse the remarks of the PDJ"

Sd/KGJ/27.10.2003

Remarks of the PDJ:

I) Reputation as to

- | | |
|-----------------|--------------------|
| a. Honesty | :"should improve" |
| b. Integrity | :"not commendable" |
| c. Impartiality | :"should improve" |

II) Overall view : "has to improve a lot"

Sd/CJ

-Adverse remarks communicated to the officer on 22.01.2004.



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ANNUAL CONFIDENTIAL REPORT
TMT. G. KALAYATHI

01.01.2003 to 31.12.2003

I) Conduct and Dignity:

- | | |
|------------------|------------------|
| a) Inside Court | "Should improve" |
| b) Outside Court | |

II) Reputation as to:

- | | |
|-----------------|--------------------------|
| a) Honesty | "Not to the expectation" |
| b) Integrity | |
| c) Impartiality | |

Sd/ KGI/10.05.2004

Sd/CJ/15.02.2005

- Adverse remarks communicated to the officer on 09.03.2005.

01.01.2004 to 30.04.2004

I) Knowledge of Law and Procedure

II) Promptitude in disposal of cases

- | | |
|------------|------------------|
| a) Current | "Should improve" |
| b) Old | |

- | | |
|--|------------------|
| III) a) Aptitude for hard / heavy work | "Should improve" |
| b) Readiness to take up responsibility | |

IV) Conduct and Dignity

- | | |
|------------------|---------------------------|
| a) Inside Court | "Should avoid complaints" |
| b) Outside Court | |

Sd/ PDDJ/23.03.2006

Sd/CJ

- Adverse remarks communicated to the officer on 04.08.2006.



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ANNUAL CONFIDENTIAL REPORT
TML G. KALAYATHI

05.05.2004 to 17.08.2004 &

02.09.2004 to 31.12.2004

"Fair"

Sd/RBJ/30.07.2005

"Seen"

Sd/CJ/15.08.2005

01.01.2005 to 08.05.2005 &

16.05.2005 to 18.12.2005 &

24.12.2005 to 25.12.2005

"Column No. 1 to 10 I endorse the remarks of the PDT"

"Out of 233 working days availed leave for 30 days at regular interval under various counts is not appreciated."

Sd/JAKSJ

Sd/FMKJ/07.11.2006

Sd/CJ

- Adverse remarks communicated to the officer on 16.11.2006

- Representation dated 08.12.2006 submitted by the officer - considered - *expurgated the remarks noted against the officer with regard to "Opinion expressed, is not the adverse remark the officer is informed not to avail leave detrimental to official work. This may be informed to the officer."*

Sd/ JAKSJ

"I endorse the view of JAKSJ

The officer may be informed that the opinion is not an adverse entry in her ACR."

Sd/FMKJ/27.04.2007

Sd/CJ

- Informed to the officer on 15.06.2007.

01.01.2006 to 30.04.2006

"Endorse the views of PDT"

Sd/FMKJ/27.10.2007

Remarks of the PDT:

"Satisfactory"

Sd/CJ/05.11.2007



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ANNUAL CONFIDENTIAL REPORT
TMT. G. KALAVATHI

01.05.2006 to 21.05.2006 &

27.05.2006 to 31.12.2006

"Satisfactory"

Sd/FMKJ/27.10.2007

Sd/CJ/05.11.2007

01.01.2007 to 30.04.2007

"Satisfactory"

Sd/FMKJ/04.02.2009

Sd/CJ/31.03.2009

04.05.2007 to 31.12.2007

"Good"

Sd/VRSJ/22.03.2011

01.01.2008 to 30.09.2008

"I endorse the view of PDI"

Sd/DMJ/28.10.2008

Remarks of the PDI:

"Satisfactory"

Sd/ACJ

01.10.2008 to 31.12.2008

"Satisfactory"

Sd/DMJ/28.10.2008

"Seen"

Sd/ACJ

01.01.2009 to 11.09.2009

"Satisfactory"

Sd/DMJ/21.11.2010

16.09.2009 to 08.09.2009 &

12.10.2009 to 31.12.2009

"Satisfactory"

Sd/DR/01.11.2011



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**ANNUAL CONFIDENTIAL REPORT
JMT. G. KALAVATHI**

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01.01.2010 to 31.12.2010

"PJ's remarks endorsed"

Sd/TDRJ

Remarks of the PJ:

"Satisfactory"

19.01.2011 to 31.05.2011 &

01.06.2011 to 31.12.2011

"Satisfactory"

Sd/KNBJ/11.05.2013

01.01.2012 to 30.04.2012 &

01.05.2012 to 31.12.2012

"Satisfactory"

Sd/NPVJ/25.12.2013

Sd/CJ/07.01.2014

01.01.2013 to 30.04.2013

"do"

Sd/ SRJ / 04.10.2014

Sd/ CJ / 06.01.2015

Remarks of the PDJ:

Overall View: "Satisfactory"

01.05.2013 to 31.12.2013

"Satisfactory"

Sd/ MJJ

Sd/ CJ

01.01.2014 to 31.12.2014

"Good"

Sd/ MJJ

01.01.2015 to 19.01.2015

Short Period



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**ANNUAL CONFIDENTIAL REPORT
TMT. G. KALAVATHI**

19.01.2015 to 13.09.2015

"Good"

Sd: SMKJ / 06.08.2016

14.09.2015 to 31.12.2015

"Average"

Sd: SNJ

Sd: CJ

01.01.2016 to 31.12.2016

"Average"

Sd: TSSJ

Sd: CJ

01.01.2017 to 31.12.2017

"Average"

Sd: TSSJ

Sd: CJ

01.01.2018 to 30.04.2018

"Average"

Sd: TSSJ / 09.11.2019

Sd: CJ / 27.02.2020

02.05.2018 to 31.12.2018

"Good"

Sd: VPNJ / 07.01.2020

Sd: CJ / 27.02.2020

05.01.2019 to 31.12.2019

"Good"

Sd: VPNJ / 19.01.2022

Orders of the Hon'ble The Chief Justice to be obtained.

01.01.2020 to 26.05.2020 &

08.06.2020 to 29.09.2020

Under Circulation



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24. The Hon'ble Administrative Committee considered the entire service records of the petitioner and the overall reputation gained by the petitioner in the Judicial Department. Though, a particular incident of passing a judgement in the Civil Suit prompted the second respondent to initiate review proceedings, the entire service records had been verified and the Hon'ble Administrative Committee, resolved that there were sufficient and reasonable grounds to believe that it would be inappropriate to continue the petitioner in service beyond the age of 50 years in public interest. The resolution passed had been approved by the Hon'ble Full Court.

25. The ground raised by the petitioner that a single incident of passing a judgement in Civil Suit would be insufficient to compulsorily retire the petitioner in public interest is untenable. The second respondent has not arrived at the conclusion merely based on the judgement passed in the decree in a Civil Suit, but considered the entire service records of the petitioner, integrity, and the overall reputation of the petitioner in Judicial Departments. The judgement in the case of *High Court of Judicature at Patna vs. Ajay Kumar Srivastava and others, reported in (2017) 5 SCC*



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138, referred on behalf of the petitioner is of no avail since the officer in the said case was compulsorily retired merely based on the allegations of serious misconduct. The requirement under F.R. 56(2) was missing in the facts of the said case and thus, the observations of the Hon'ble Supreme Court in paragraph 13 is not applicable to the facts of the present case.

26. The petitioner relied on the case of **Registrar, High Court of Madras vs. R.Rajiah, reported in (1988) 3 SCC 211**, which is also on different facts and circumstances. In the said case, an isolated adverse incident was taken as a basis to compulsorily retire the Officer. What was missing in **R.Rajiah's** case was that consideration of entire past records of the Judicial Officer. Therefore, the said judgement is also of no avail to the petitioner. In the case of **Baldev Raj Chadha vs. Union of India and others, reported in (1980) 4 SCC 321**, the Supreme Court made certain observations in general. However, in the present case, the respondents have considered the past records of the petitioner, her integrity, over all reputation of the petitioner in the Judicial Department and arrived at a conclusion that the petitioner deserved to be retired compulsorily in public interest. Thus, the decision making process in the present case satisfied the requirements to invoke F.R. 56(2) .



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27. One of the main arguments raised on behalf of the petitioner is that, the petitioner has been promoted to the cadre of District Judge and her record prior to promotion will lose its sting and is not of much value. The “Washed-off Theory” does not have universal application. It may have relevance while considering the case of Judicial Officers for further promotion is not a case, where an employee is being assessed by the Reviewing Authority to determine, whether she is fit to be retained in service or requires to be given compulsory retirement in public interest as the Committee is to assess suitability taking into consideration “entire service records”.

28. The Hon'ble Supreme Court of India held that “Washed-off Theory” does not apply in case of Judicial Officers, specially in respect of adverse entries relating to integrity, honesty, impartiality and reputation.

29. What is emphasized is “entire Service Records” of the Judicial Officer, while assessing, whether she can be given compulsory retirement irrespective of the fact that the adverse entries have not been communicated to the Officer and had been promoted earlier in spite of those adverse entries.



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30. In unequivocal terms, it is to be reiterated that, **a single adverse entry regarding the integrity of an Officer even in remote past is sufficient to award compulsory retirement in public interest.** The case of a Judicial Officer is required to be examined, treating her to be different from other wings of the Society, as she is serving the State in a different capacity.

31. Therefore, the degree of consideration to compulsorily retire in public interest, differs from Government servant to Judicial Officer. High degree of integrity is expected in Judicial Services, considering the nature of duties and the status being enjoyed by the Judges in the society.

32. In the present case, the Review Committee considered the issues in consonance with the requirements under F.R. 56. The object of the scheme of compulsory retirement in public interest is to weed out the dead wood, to maintain a high standard of efficiency and integrity in judicial services. In the present case, the Annual Confidential Records (ACRs) would reveal that there are adverse entries touching upon the integrity and honesty of the Judicial Officer. It is recorded by the Hon'ble



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Administrative Judge that the reputation as to honesty, integrity and impartiality is non-satisfactory. Promptitude in disposal of cases, both current and old were also recorded as “Not Satisfactory”. Even the outlook towards the members of the Bar and public were also found “Not Satisfactory”.

33. It is relevant to consider the principles laid down by the Supreme Court in the case of *J.D.Srivasthava*, cited supra. No doubt, compulsory retirement in public interest shall not be imposed as a punitive measure and also shall not be passed as a short cut to avoid departmental enquiry. However, in the present case, though the enquiry was pending, the Review Committee independently considered the overall performance of the Judicial Officer with reference to the Annual Confidential Reports. Therefore, the petitioner is not entitled to take shelter on the ground that the inquiry is pending and therefore, she cannot be retired compulsorily in public interest.

34. The Hon'ble Supreme Court of India, in the case of *Arun Kumar Gupta*, cited supra, reiterated that for compulsory retirement in public interest, entire record of the Judicial Officer should be taken into



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consideration. The 'Washed-off Theory' does not apply in case of a Judicial Officer specially in respect of adverse entries relating to integrity.

Therefore, the Courts should exercise their powers of judicial review with great circumspection and restraint, keeping in view of the fact that the compulsory retirement of a Judicial Officer is normally directed on the recommendations of the High Power Committee of the High Court.

35. The Law Requires the Authority to consider the 'entire service records' of the Officer while assessing whether she can be given compulsory retirement in public interest, irrespective of the fact that the adverse entries had not been communicated to her and the Officer had been promoted earlier in spite of those adverse entries. The principles reiterate that a single adverse entry regarding the integrity of an Officer found in remote past is sufficient to award compulsory retirement in public interest. The Three Judges Bench of the Supreme Court in the case of ***Pyare Mohan Lal vs. State of Jharkhand and Others [(2010) 10 SCC 693]*** in unequivocal terms held that the case of Judicial Officer is required to be examined, treating him to be different from other wings of society, as he is serving the State in a different capacity".



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36. The cases of Judicial Officers are considered by a Committee of Judges of the High Court duly constituted by the Hon'ble Chief Justice and then the report of the Committee, is placed before the Full Court. A decision is taken by the Full Court after due deliberation of the matter. Therefore, there is hardly any chance to make any non-application of mind or mala fides. Thus, the High Court objectively decided to recommend her compulsory retirement in public interest and the State Authorities acted accordingly. No fault can be found with the decision making process or with the decision in the present case. Thus we do not find any merit in the case of the petitioner.

37. In view of the facts and circumstances, as established, we do not find any reason to interfere with the decision of the respondents. Accordingly, the impugned orders are confirmed and the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.J.,)

(K.R.S.J.,)

15.03.2024

Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



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1. The Chief Secretary to Government,
Secretariat, Fort St.George,
Chennai - 600 009.

2. The Registrar General,
High Court, Madras,
High Court Buildings,
Chennai- 600 104.



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S.M.SUBRAMANIAM, J.

and

K.RAJASEKAR, J.

(sha)

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15.03.2024