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WP No28123 of 2



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**ORDERS RESERVED ON : 13-03-2024**

**ORDERS PRONOUNCED ON: 19-03-2024**

**CORAM**

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

**WP No.28123 of 2022**

R.Selvanayagi Kannan

.. Petitioner

-VS-

1.The Government of Tamil Nadu,  
Represented by its Additional Chief Secretary to Government,  
Home (Courts-I) Department,  
Fort St. Georg,  
Chennai-600 009.



2. The Registrar-General,  
High Court,  
Madras.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of a Writ of Certiorarified Mandamus, calling for the records of the first respondent herein in G.O.(Ms) No.48, Home (Courts-I) Department, dated 28.01.2022 compulsorily retiring the petitioner from service and quash the same and direct the respondents to reinstate the petitioner and grant the petitioner all consequential monetary and service benefits.

For Petitioner : Mr.R.Abdul Mubeen

For Respondent-1 : Mr.T.Chandrasekaran,  
Special Government Pleader.

For Respondent-2 : Mr.Karthick Ranganathan



## **ORDER**

**S.M.SUBRAMANIAM, J.**

### **PETITIONER'S CONTENTION:**

The order of compulsorily retirement made in public interest issued under Fundamental Rule 56(2) in G.O.Ms.No.48, Home (Courts-I) Department, dated 28.01.2022, is under challenge in the present writ proceedings.

2. The petitioner was appointed as Civil Judge (Junior Division) in the year 2003. She was promoted to the post of Senior Civil Judge on 18.09.2015. The Bar Association, Neyveli gave a complaint against the petitioner to the learned Principal District Judge, Cuddalore. The petitioner gave a complaint against one Advocate Mr.Anandaraj on 15.06.2017. The Additional Registrar (IT and Statistics) of Madurai Bench of Madras High Court has recorded that there was short of 39 cases in disposal, while working in the Eraniel Court regarding the compliance norms. The petitioner



submitted her explanation stating that the Eraniel Court started functioning only on 04.08.2018 and the transfer of bundles from Padmanathapuram Court was delayed. Further there was lack of cooperation from the Advocates. It was informed to the petitioner on 26.08.2020 that in Annual Confidential Report, it was recorded as “Disposal Below Average” for the period from 04.08.2018 to 31.12.2018. The petitioner submitted her explanation. However, the said explanation was rejected. The petitioner was promoted to the post of District Judge (Entry Level) vide High Court's Notification No.41 of 2021 dated 03.02.2021. The petitioner submitted her representation on 11.02.2021, assigning the reasons for not completing the norms fixed for disposal of cases. Subsequently, the High Court has forwarded the proposal to compulsorily retire the petitioner in public interest. Thereafter, the impugned G.O.Ms.No.48, dated 28.01.2022, was issued by the Government. Thus the present writ petition came to be instituted.

3. Mr.R.Abdul Mubeen, learned counsel for the petitioner, would mainly contend that compulsory retirement of the petitioner in public interest by not extending the services beyond 50 years is unjust and



untenable. There is no sufficient material available on record to form an opinion to compulsorily retire the petitioner in public interest. Regarding the statistics that the petitioner had not reached the norms, explanation was submitted stating that the Court at Eraniel, Kanyakumari District was constituted newly and there was lack of cooperation on the part of the Advocates.

4. The subsequent reviews offered by the learned Principal District Judge (PDJ), Dindigul was not taken into consideration by the Hon'ble Administrative Committee. The services of the petitioner had been recorded as "good", "very good" and "satisfactory". Therefore, the Hon'ble Administrative Committee and Full Court had not considered the entire service records of the petitioner, which is essentially required for retiring the Judicial Officer on compulsory retirement in public interest. In the present case, the order is punitive in nature and stigmatic.

5. The over all performances of the petitioner were not considered, while taking a decision to compulsorily retire the petitioner. In the absence of sufficient materials to form an opinion as required under FR



56, the order impugned cannot be sustained.

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6. The adverse remarks in Annual Confidential Record for the period from 04.08.2018 to 31.12.2018 regarding not reached the norms should have been communicated to the petitioner, within three months as per Section 8 of the Tamil Nadu State Judicial Service (Confidential Record) Rules, 2014. However, the same was communicated to the petitioner only after a period of 1-1/2 years, which is in violation of the said Rules.

7. The petitioner states that she had good track record of judgments and functioned and performed her duties without any adverse remarks except during the period from 04.08.2018 to 31.12.2018 and therefore the short fall of 39 cases alone, cannot be a ground to compulsorily retire the petitioner in public interest.

**REPLY BY THE SECOND RESPONDENT:**

8. Mr.Karthick Ranganathan, learned counsel, appearing on behalf of the second respondent, would oppose the contentions raised on



behalf of the petitioner, by stating that the Hon'ble Administrative Committee and the Full Court had considered the entire service records of the petitioner. It is not based on single incident that the decision was taken to compulsorily retire the petitioner in public interest.

9. The petitioner had completed the age of 50 years on 14.04.2021. Hence, the case of the petitioner along with 19 other Judicial Officers, who had completed the age of 50 years from the months from January to June 2021 was taken up for review under FR 56(2). The Hon'ble Administrative Committee reviewed the service records, work done statements, overall performance, quality of judgments and general reputation of the petitioner on 04.10.2021 and had unanimously resolved not to extend the service of the petitioner in public interest beyond the age of 50 years, subject to the approval of the Hon'ble Full Court. The Hon'ble Full Court, in the meeting held on 21.10.2021, considered the materials available on record and unanimously accepted the resolution of the Hon'ble Administrative Committee and resolved not to extend the service of the petitioner in public interest, beyond the age of 50 years under Fundamental Rules 56(2). The Government accepting the resolution of the Hon'ble



Administrative Committee and the Hon'ble Full Court, issued  
G.O.Ms.No.48, Home (Courts-I) Department, dated 28.01.2022.

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Accordingly, the petitioner was relieved from service.

10. The contention of the petitioner is that certain isolated incidents prompted the respondents to form an opinion under FR 56(2) to compulsorily retire the petitioner in public interest is incorrect. There are several other allegations relating to corrupt practices are also made against the petitioner. Though the allegations are not proved, the entire service records, including the reputation of the writ petitioner had been considered by the Hon'ble Administrative Committee and the Full Court.

**CONSIDERATION OF MATERIALS FOR FORMATION OF  
OPINION UNDER F.R.56 :**

11. The complaints with allegation of corrupt practices and improper Court proceedings were received against the petitioner in Roc.No.428/2005/VC, 248/2006/VC and Roc.No.204/2005/VC, while she was serving as Judicial Magistrate No.I, Namakkal during the period between 2003 and 2006. Further complaint was received against the



petitioner with the allegation of corrupt practices, while functioning as District Munsif-cum-Judicial Magistrate, Pennagaram, Dharmapuri District during the period between 2008 and 2010 in Roc.No.850/2009/VC.

12. The departmental disciplinary proceedings were filed against the petitioner in the aforesaid complaints and the respective Enquiry Officers, in their findings, held that the charges framed against the petitioner are not proved. Consequently, the proceedings initiated against the petitioner were closed.

13. The petitioner held the post of Sub Judge till 28.10.2021 and subsequently, she was placed under compulsory wait for the period commencing from 29.10.2021 to 09.02.2022, vide High Court's Notification No.266/2021 in Roc.No.103651-A/2021-B2, dated 28.10.2021.

14. It is incorrect to state that the petitioner has got good track record. The petitioner had not reached the norms for the period from 01.04.2015 to 17.09.2015, 06.02.2016 to 31.12.2016, 01.04.2017 to 30.06.2017, 27.05.2018 to 04.08.2018 and 04.08.2018 to 31.12.2018.



15. The discreet enquiry was in progress in six vigilance complaints against the petitioner viz., (1) Roc.No.538/2017/VC, (2) Roc. No.788/2017/VC, (3) Roc.No.788-A/2017/VC, (4) Roc.No.260/2018/VC, (5) Roc.No.780/2018/VC and (6) Roc.No.221/2018/VC.

16. The adverse remarks in the Annual Confidential Records of the petitioner for the period from 04.08.2018 to 31.12.2018 were communicated vide High Court's Office Memorandum dated 26.08.2020. The petitioner had made a representation dated 12.10.2020 requesting to expunge the adverse remarks recorded in Annual Confidential Record of the petitioner. The High Court vide Official Memorandum dated 10.02.2021, regarding the request made by the petitioner as she had failed to reach the norms not only for the period from 04.08.2018 to 31.12.2018, but as well as for the subsequent periods of January, February and March 2019.

17. The Annual Confidential Records as produced by the second respondent, stand extracted hereunder:-



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**ANNUAL CONFIDENTIAL RECORDS**  
**TMT. R. SELVANAYAGI KANNAN**

**01.01.2004 to 31.12.2004**

'Satisfactory'

Sd/- CNJ/ 06.10.2005

Sd/- CJ

**01.01.2005 to 31.12.2005**

'I agree'

Sd/- PDDJ/ 12.12.2006

Sd/- CJ

**PDJ Remarks:** 'Satisfactory'

**01.01.2006 to 31.12.2006**

'Satisfactory'

Sd/- KRPJ / 08.11.2007

Sd/- CJ / 20.11.2007

**01.01.2007 to 30.04.2007**

'Satisfactory'

Sd/- KRPJ

'I agree'

Sd/- ACJ

**04.06.2007 to 31.12.2007**

'Satisfactory'

Sd/- SKKJ

'Approved'

Sd/- ACJ

**01.01.2008 to 31.12.2008**

'Satisfactory'

Sd/- SKKJ / 05.11.2009

'Seen'

Sd/- ACJ

**01.01.2009 to 31.12.2009**

'Satisfactory'

Sd/- MCJ / 26.11.2010

Sd/- ACJ

**01.01.2010 to 30.04.2010**

'Satisfactory'

Sd/- SPVJ / 01.12.2014

Sd/- CJ / 06.01.2015

Sd/- ACJ



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**ANNUAL CONFIDENTIAL RECORDS**  
**TMT. R. SELVANAYAGI KANNAN**

**02.06.2010 to 18.07.2010 and**  
**30.07.2010 to 31.12.2010**

'Good'  
Sd/- RSJ / 29.04.2013  
Sd/- ACJ

**01.01.2011 to 31.12.2011**

'Good'  
Sd/- RSJ / 07.06.2013  
Sd/- ACJ

**01.01.2012 to 31.10.2012**

'Good'  
Sd/- RSJ / 22.03.2014  
Sd/-ACJ / 10.06.2014

**01.11.2012 to 31.12.2012**

'Good'  
Sd/- RSJ / 22.03.2014  
Sd/-ACJ / 01.07.2014

**01.01.2013 to 30.04.2013**

'Satisfactory'  
Sd/- MSNJ / 01.02.2015  
Sd/- CJ

**02.05.2013 to 31.10.2013**

'Satisfactory'  
Sd/- RMJ / 29.11.2014  
Sd/- CJ / 09.01.2015

**01.11.2013 to 31.12.2013**

'Short period. No remarks'  
Sd/- RMJ / 29.11.2014  
Sd/- CJ / 09.01.2015

**01.01.2014 to 30.10.2014**

'Satisfactory'  
Sd/- KBKVJ

**30.10.2014 to 31.12.2014**

Short Period.

**01.01.2015 to 31.05.2015**

'Average'  
Sd/- MJJ



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**ANNUAL CONFIDENTIAL RECORDS  
TMT. R. SELVANAYAGI KANNAN**

01.06.2015 to 20.07.2015

'Good'

Sd/- MJJ

21.07.2015 to 16.01.2016

Special Adoption leave for 180 days.

08.02.2016 to 31.12.2016

'Good'

Sd/- RPSJ / 08.09.2017

01.01.2017 to 14.12.2017

'Good'

Sd/- RPSJ / 26.06.2018

15.12.2017 to 31.12.2017

Short Period.

01.01.2018 to 22.05.2018

'Good'

Sd/- TSSJ / 27.12.2019

27.05.2018 to 04.08.2018

'Average'

Sd/- PNPJ / 21.08.2019

04.08.2018 to 31.12.2018

1. Quality of Judgment/Order

- a) Language
- b) Narration
- c) Clarity in thought
- d) Reasoning
- e) Conclusion

"Disposal Below Average"

3. Promptitude in disposal of Cases

- a) Current
- b) Old

"Below Average"

Sd/- PNPJ / 21.08.2019

Sd/- CJ / 27.02.2020

Adverse remarks communicated to the officer on 26.08.2020 – Representation dated 12.10.2020 submitted by the officer to expunge the adverse remarks – Considered and ordered as *"Her representation was considered. This remarks relates to the period 04.08.2018 to 31.12.2018. The fact remains that she had not reached the norms for that period. I am unable to accept her*



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**ANNUAL CONFIDENTIAL RECORDS**  
**TMT.R.SELVANAYAGI KANNAN**

*explanation because, for the subsequent period, namely January, February and March 2019, she has not reached the norms. Hence there is no reason to review or expunge the remarks. Her request is rejected."*

Sd/- PNPJ / 23.11.2020

Sd/- CJ / 18.12.2020

Informed to the officer on 10.02.2021

Further representation dated 01.03.2021 submitted by the officer – *directed to state that, as per Rule 9(3) of the Tamil Nadu State Judicial Service (Confidential Records) Rules 2014. "No further representation on the decision of the High Court on the representation received as per Rule 9(1) above shall be entertained."*

Informed accordingly to the officer on 08.07.2021.

**01.01.2019 to 13.06.2019**

1. Quality of Judgment/Order
  - a. Language
  - b. Narration
  - c. Clarity in thought
  - d. Reasoning
  - e. Conclusion
2. Knowledge of Law and Procedure
3. Promptitude in disposal Of Cases
  - a. Current
  - b. Old
4.
  - a. Industry
  - b. Aptitude for hard/heavy work
  - c. Readiness to take up Responsibility
5. Supervision and Control
  - a. On Subordinate Judges
  - b. On Office Staff
6. Attitude towards
  - a. Superiors
  - b. Subordinates
  - c. Colleagues
7. Conduct and Dignity
  - a. Inside Court
  - b. Outside Court
8. Outlook towards
  - a. Members of the Bar
  - b. Public

"Below Average"



**ANNUAL CONFIDENTIAL RECORDS**  
**TMT. R. SELVANAYAGI KANNAN**

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- 9.Reputation as to  
a.Honesty  
b.Integrity  
c.Impartiality  
10.Overall view

"Below Average"

- 11.Special remarks, if any

"Received oral complaints from the Bar"

Sd/- ADJCJ  
Sd/- MKKSJ  
Sd/- CJ / 23.08.2022

14.06.2019 to 31.12.2019

'Average'

Sd/- RMDJ / 20.03.2021

01.01.2020 to 31.12.2020

'Good'

Sd/- RMDJ / 24.11.2021

01.01.2021 to 28.10.2021

Not recorded.

29.10.2021 to 09.02.2022

Under compulsory wait.

On 09.02.2022, the officer Compulsorily retired from Service under F.R. 56(2) at the age of 50 years, vide G.O.(Ms).No.48, Home (Courts-I) Department, dated 28.01.2022 and High Court's Notification No.22/2022 in Roc.No.4027/2021/B1/Spl.Cell, dated 08.02.2022. G.O. And Notification served on 09.02.2022 at 10.30 A.M.



**LEGAL POSITION:**

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19. Principles on the scope of judicial review are settled:-

(i) An order of compulsory retirement is not a punishment. It implies no stigma of misbehaviour.

(ii) The order has to be passed on forming the opinion that it is in public interest to retire a Government Servant compulsorily and the order has to be passed on subjective satisfaction of the Government.

(iii) The principles of natural justice have no place.

(iv) The High Court can interfere only if it is satisfied that the order of compulsory retirement has been passed (a) mala fide (b) it is based on no evidence (c) that it is arbitrary and found to be perverse.

20. The guidelines to compulsorily retire a Government Servant in public interest issued in G.O.Ms.No.623, Personnel and Administrative Reforms Department, dated 14.07.1983, states that the following types of cases may be put up before the Review Committee for review:-

*“4. (i) In cases where the Government have*



*reasonable cum believe that an officer is lacking in integrity, this would be an appropriate ground to consider him for compulsory retirement irrespective of an assessment of his ability or efficiency in work.*

*(ii) In cases where Government have reason to believe that habitually takes bribes but there is no definite proof of a specific anti corruption, or where the officer has a bad reputation and where the abundant suspicion against him even though the guilt may not have established in a criminal case, such case can be brought up for review. (G.O.(Ms).No.761, Public (Ser.A), dated:19th March 1973.).*

*(iii) Cases where an Officer's integrity is not in doubt, but his physical or mental condition is such as to make him inefficient for further surrender him unfit to discharge his duties properly.*

*(iv) Cases of Officers against whom there are repeated complaint corruption;*

*(v) Cases of Government servants who although have done whom lower grades, are not considered adequate for the responsibilities of*



*they occupy or will not be able to perform efficiently in their post for the 3/5 years. (Circular Memo. No.39541/75-139, Pub. (Ser.M), dated: November 1976.).”*

21. The guidelines for Review Committee are also issued. The principles relating to compulsory retirement in public interest has been broadly settled by the Supreme Court in the case of **J.D.Srivastava vs. State of Madhya Pradesh and Others [1984 (2) SCC 8]**, it has been held as under:-

*“The law relating to compulsory retirement has now crystallised into definite principles, which could be broadly summarised thus:*

*(i) Whenever the services of a public servant are no longer useful to the general administration, the officer can be compulsorily retired for the sake of public interest.*

*(ii) Ordinarily, the order of compulsory retirement is not to be treated as a punishment coming under Article 311 of the Constitution.*

*(iii) For better administration, it is necessary to chop off dead wood, but the order of compulsory retirement can be passed after having*



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*due regard to the entire service record of the officer.*

*(iv) Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.*

*(v) Even uncommunicated entries in the confidential record can also be taken into consideration.*

*(vi) The order of compulsory retirement shall not be passed as a short cut to avoid departmental enquiry when such course is more desirable.*

*(vii) If the officer was given a promotion despite adverse entries made in the confidential record, that is a fact in favour of the officer.*

*(viii) Compulsory retirement shall not be imposed as a punitive measure.”*

22. It is also well settled that formation of opinion for compulsory retirement is based on the subjective satisfaction of the Authority concerned, but such satisfaction must be based on a valid material. It is permissible for the Courts to ascertain whether a valid material exists or otherwise, on which the subjective satisfaction of the Authority is



based. The principles discussed above, were considered by the supreme Court in the case of **Arun Kumar Gupta vs. State of Jharkhand and another** [2020 (13) SCC 355], it has been held as under:-

*“9. Now coming to the express words of Fundamental Rule 56(j) it says that the appropriate authority has the absolute right to retire a government servant if it is of the opinion that it is in the public interest to do so. The right conferred on the appropriate authority is an absolute one. That power can be exercised subject to the conditions mentioned in the rule, one of which is that the authority concerned must be of the opinion that it is in public interest to do so. If that authority bona fide forms that opinion, the correctness of that opinion cannot be challenged before courts. It is open to an aggrieved party to contend that the requisite opinion has not been formed or the decision is based on collateral grounds or that it is an arbitrary decision.*

*16. Reference may also be made to the judgment of this Court in Pyare Mohan Lal [Pyare Mohan Lal v. State of Jharkhand, (2010) 10 SCC 693 : (2011) 1 SCC (L&S) 550] in*



*which while dealing with the concept of washed-off theory, this Court after dealing with the entire case law on the subject held as follows : (SCC pp. 704-706, paras 24 & 29)*

*29. The law requires the authority to consider the “entire service record” of the employee while assessing whether he can be given compulsory retirement irrespective of the fact that the adverse entries had not been communicated to him and the officer had been promoted earlier in spite of those adverse entries. More so, a single adverse entry regarding the integrity of an officer even in remote past is sufficient to award compulsory retirement. The case of a judicial officer is required to be examined, treating him to be different from other wings of the society, as he is serving the State in a different capacity. The case of a judicial officer is considered by a committee of Judges of the High Court duly constituted by the Hon'ble the 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 on the matter. Therefore, there is hardly any chance to make the*



*allegations of non-application of mind or mala fides.”*

*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.*



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*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.*

*24. As is obvious from the law quoted above, adverse entries with regard to integrity do not lose their sting at any stage. A judicial officer's integrity must be of a higher order and even a single aberration is not permitted. As far as the present cases are concerned, the matter has been considered by the Screening Committee on two occasions and the recommendations of the Screening Committee have been accepted by the Standing Committee on both occasions. The action taken is not by one officer or Judge, it is a collective decision, first by the Screening Committee and then approved by the Standing Committee.”*

### **DISCUSSIONS:**



23. An order directing the compulsory retirement of a Judicial Officer is not punitive in nature. An order directing compulsory retirement of a Judicial Officer has no civil consequences. The entire service record of the Judicial Officer should be taken into consideration, though the later and more contemporaneous records must be given more weightage.

24. The Supreme Court held that “Washed-off Theory” does not apply in case of Judicial Officers, specially in respect of adverse entries relating to integrity.

25. One of the main arguments raised on behalf of the petitioner is that, the petitioner has been promoted to the cadre of Sub 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”.

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26. 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.

27. 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.

28. Therefore, the degree of consideration to compulsorily retire in public interest, is differ 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.



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29. In the present case, the Annual Confidential Records of the petitioner would reveal that the Hon'ble Administrative Judges recorded as “satisfactory” and regarding disposal of cases, it is stated as “below average”. Pertinently for the period in January, February and March 2019, it is recorded that “received oral complaints” from the Bar. The outlook towards the Members of the Bar and public, are also recorded as “below average”. Regarding reputation as to honesty, integrity and impartiality, it is recorded as “below average”. Several complaints regarding the allegations of corrupt practices were received against the petitioner. Though the allegations are not proved, the respondents have considered the over all reputation relating to the honesty and integrity. The petitioner has not reached norms on several occasions. Subsequently, six vigilance complaints were received and discreet enquiry was in progress, but considering the entire service records of the petitioner, a decision had been taken.



30. 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 vigilance enquiry has been initiated, the Review Committee independently considered the overall performance of the Judicial Officer right from her date of inception as District Munsif. Now the petitioner is not entitled to take shelter on the ground that the departmental disciplinary proceedings were initiated and before concluding the same, she was retired compulsorily in public interest and the respondents short circuited the proceedings.

31. The Apex Court, 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 consideration. The ‘Washed-off Theory’ does not applied in case of a Judicial Officer specially in respect of adverse entries relating to integrity. Therefore, the Courts should exercise their power 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.

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32. The Law Requires the Authority has 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”.

33. In the present case, the materials considered with reference to the entire past records of the petitioner, as discussed above, would be sufficient to form an opinion under FR 56(2) to retire the petitioner



compulsorily in public interest.

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34. 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 force in the submissions made on behalf of the petitioner. Thus the writ petition has to fail and consequently stands dismissed. However, there shall be no order as to costs.

**(S.M.SUBRAMANIAM,J.)**

**(K.RAJASEKAR,J.)**

**19-03-2024**



Index : Yes/No  
Internet: Yes/No  
Speaking order/Non-Speaking order  
Neutral Citation : Yes/No  
Svn

To

- 1.The Additional Chief Secretary to Government,  
Government of Tamil Nadu,  
Home (Courts-I) Department,  
Fort St. Georg,  
Chennai-600 009.
- 2.The Registrar-General,  
High Court,  
Madras.



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**S.M.SUBRAMANIAM, J.**  
**AND**  
**K.RAJASEKAR, J.**

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