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

Date of decision: 11.12.2025

\+ W.P.(C) 1852/2020

VINOD KUMAR

.....Petitioner

Through: Mr.Sunil Dalal, Sr. Adv. with Ms.Garima Sachdeva, Mr.Rajiv Singh, Mr.Ankit Rana, Ms.Shipra Bali & Mr.Bharat Malhotra, Advs.

versus

GOVT. OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mrs.Avnish Ahlawat, SC for GNCTD (Services) with Mr.Nitesh Kumar Singh, Ms.Aliza Alam and Mr.Mohnish Sehrawat, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed, challenging the Order dated 21.01.2020 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. 3302/2019, titled ***Vinod Kumar v. Govt. of NCT of Delhi & Anr.***, dismissing the O.A. filed by the petitioner herein.

2. The petitioner had filed the above O.A., *inter alia*, challenging therein the order dated 31.10.2019, by which he had been visited with compulsory retirement from service even before attaining the age of 50 years, and the subsequent order dated 04.11.2019, which was issued as a corrigendum stating that the compulsory retirement would take effect upon his attaining the age of 50 years.

3. During the pendency of the above O.A., the petitioner's representation against the said orders was also rejected by an order dated 09.08.2021.

Submissions of the learned senior counsel for the petitioner:

4. The learned senior counsel for the petitioner submits that the learned Tribunal failed to appreciate that the entire basis for the Impugned Orders, compulsorily retiring the petitioner, was that the petitioner had been placed in an '*Agreed List*' of the CBI regarding doubtful integrity since 2015 on the basis of a criminal case registered by the CBI against him, being FIR No. RC-DAI-2013-A-0027 dated 08.10.2013. He submits that by an order dated 26.03.2018, passed by the learned Special Judge (PC Act), CBI Court-01, Central District, Tis Hazari Courts, Delhi, the learned Judge had in fact refused to even take cognizance of the charge-sheet filed in the said case against the petitioner.

5. He further submits that the respondents had asserted that the ACRs/APARs of the petitioner were available only till 2011-12 and were not available for the period 2012-2013 to 2017-2018 and, therefore, the performance of the petitioner could not be assessed. He

submits that the petitioner had duly submitted his self-appraisal for the concerned years and that, only because the respondents, for their own reasons, did not write the ACRs/APARs of the petitioner, the petitioner cannot be penalized.

6. He submits that, till the assessment year 2011-2012, the APAR of the petitioner was either 'very good' or 'good,' and his integrity was reported to be beyond doubt.

7. He submits that in spite of these facts being brought to the notice of the Reviewing Authority, the Reviewing Authority, in a mechanical manner, rejected the representation of the petitioner.

8. He submits that in another case, namely, of Shri Hom Karan, in spite of charges being framed against the said officer under Section 409 IPC read with Section 13(1)(c) of the Prevention of Corruption Act, 1988, the order compulsorily retiring him was advised to be withdrawn and was eventually withdrawn by an order dated 09.08.2021. He submits that the learned Tribunal, however, failed to appreciate the above submissions and, instead, mechanically rejected the O.A. filed by the petitioner.

Submissions of the learned counsel for the respondents:

9. On the other hand, the learned counsel for the respondents submits that the scope of the judicial review of an order compulsorily retiring an officer, not being a punishment or a penalty, is very limited.

10. He submits that the respondents had considered the entire service record of the petitioner, including the FIR registered by the

CBI against him on allegations of causing pecuniary loss to the Government while he was posted in the Department of Trade and Taxes. It was also noted that the petitioner had been placed in the '*Agreed List*' maintained by the Department of Vigilance for the year 2015, and in the '*doubtful integrity*' list for the years 2017 and 2018. He was also found wanting in performing his duties on several occasions, and involved in misconducts amounting to doubtful integrity. He submits that the order compulsorily retiring the petitioner was, therefore, passed on a holistic consideration of his service record, and the same does not deserve to be interfered with by the learned Tribunal or by this Court.

Analysis and findings:

11. We have considered the submissions made by the learned counsels for the parties.

12. At the outset, we would note the limited jurisdiction that we have while judicially reviewing the decision of an employer to compulsorily retire an officer under Fundamental Rule 56(j). The principles applicable to the same have recently been considered by a Coordinate Bench of this Court in ***Ajay Kumar Sharma v. Commissioner, South Delhi Municipal Corporation and Anr.***, 2025 SCC OnLine Del 3864, and were summarized as under:—

> "*22.5 The Takeaway*
>
> *From the above judgments, the following principles emerge, in the matter of compulsory retirement, where it is not awarded as a punishment:*
>
> *(i) The scope of judicial review, in matters of compulsory retirement, is fairly limited.*
>
> *(ii) Compulsory retirement involves no penal*

consequences.

(iii) At the same time, if unlimited discretion is permitted to the administration in the matter of passing orders of compulsory retirement, it would be the surest menace to public interest and must fail for unreasonable, arbitrariness and disguised dismissal.

(iv) The exercise of power to compulsory retire an officer must be bona fide and to promote public interest.

(v) It is permissible to lift the veil in order to ascertain whether an order of compulsory retirement is based on any misconduct of the government servant and whether the order has been made bona fide without any oblique and extraneous purpose.

(vi) A bona fide order of compulsory retirement can be challenged only on the ground that the requisite opinion has not been informed, the decision is based on collateral factors or is arbitrary.

(vii) The court cannot sit in appeal over an order of compulsory retirement, but can interfere if it is satisfied that the order is passed mala fide, or is based on no evidence, or is arbitrary, in the sense that no reasonable person would form the requisite opinion in the given material.

(viii) The object of compulsory retirement, where it is not awarded as a punishment, aims at weeding out dead wood to maintain efficiency and initiative in the service, and dispensing with the services of those whose integrity is doubtful so as to preserve purity in the administration.

(ix) If the order of compulsory retirement casts a stigma on the government servant or contains any statement casting aspersion on his conduct or character, it would be treated as an order of punishment, attracting Article 311(2) of the Constitution of India. If, however, the order of compulsory retirement refers only to an assessment of his work and

does not cast an aspersion on his conduct or character, the order of compulsory retirement cannot be treated as an order of punishment. The test would be the manner in which a reasonable person would read or understand the order of compulsory retirement.

(x) FR 56(j) does not require any opportunity to show cause to be provided before an order of compulsory retirement is passed.

(xi) Before passing an order of compulsory retirement, the entire service record of the officer has to be taken into account.

(xii) The gradings in the ACRs of the officer are relevant. The performance of the officer in later years, including the gradings granted in later years, would be of greater relevance than those in earlier years. Where the ACRs continuously record the integrity of the officer as being "beyond doubt", or grade him "outstanding" or "very good", it is an important factor in favour of the officer, and would, in a given case, vitiate the order of compulsory retirement, unless it is shown that, between the last such entry and the passing of the order of compulsory retirement, there was sudden and unexplained deterioration in the performance of the officer.

(xiii) Uncommunicated adverse entries in the ACRs of the officer can also be taken into account before passing an order of compulsory retirement.

(xiv) Grant of promotion to an officer despite adverse entries in his confidential record is a factor operating in favour of the officer. Promotion to a higher post notwithstanding adverse remarks result in the adverse remarks losing their sting.

(xv) The fact that the officer was allowed to cross the efficiency bar, or was granted promotion after the events which formed the basis of the order of compulsory retirement, is also a relevant

consideration.

(xvi)The subjective satisfaction of the authority passing an order of compulsory retirement must be based on valid material.

(xvii)Compulsory retirement is not required to be by a speaking order.

(xviii)The principle of audi alteram partem has no application in the case of compulsory retirement."

13. Applying the above principles to the facts of the present case, it is found that the Reviewing Committee has based its decision on the records collected by the Services Department, which stated as under:—

> "*i) The name of the officer figures in the Agreed list maintained by Dte. Of Vigilance for the year 2015 and Doubtful Integrity list for the years 2017 & 2018.*
>
> *ii) He is one of the accused in FIR No. RC-DAI-2013-A-0027 dated 08.10.2013 registered by CBI, ACB, New Delhi after joint surprise check at Enforcement-II Branch, Trade & Taxes Department, in which a number of irregularities were detected. After reassessment of Tax and Penalty of impounded goods earlier assessed by Sh. Vinod Kumar, the then VATO, revenue loss of Rs. 1,70,723/- was found.*
>
> *iii) The officer was wanting in performing his duties on many occasions and involved in misconducts amounting to doubtful integrity.*
>
> *iv) The prosecution sanction has been issued vide order dated 23.07.2018.*
>
> *v) No ACR/APAR of the officer is available for the period 2012-2013 to 2017-2018 and, therefore, the performance of the officer for last six years could not be assessed.*"

14. The Committee thereafter, recorded as under:—

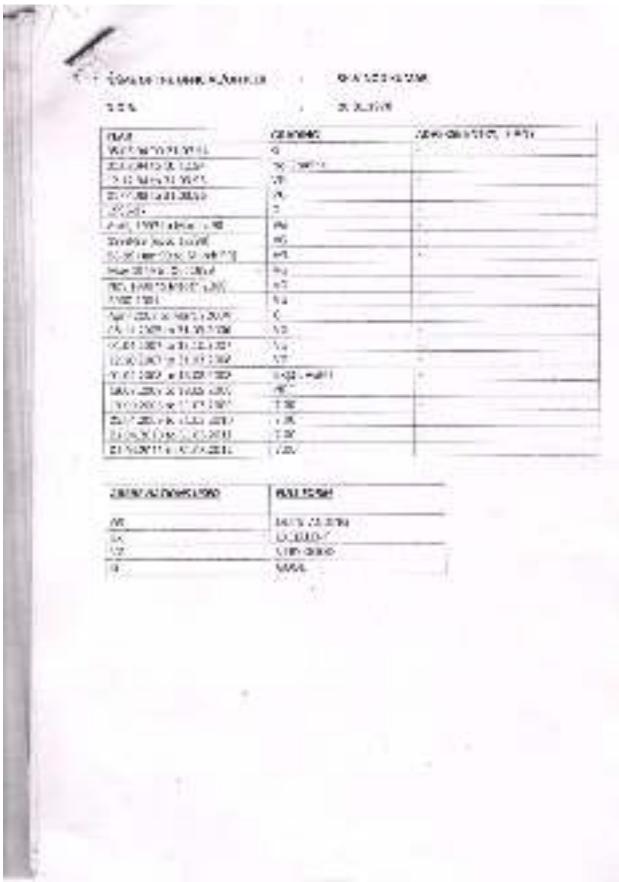
> *"The Committee accordingly observed that the officer in gross misuse of his official position, caused loss of revenue to the Government, and, therefore, his work and performance during his his career cannot be considered to be beneficial to public.*
> *Based on these observations, the Committee recommended that Sh. Vinod Kumar, Ad-hoc DANICS, may be compulsory retired from government services as his overall conduct is not found conducive for his continuation in service in larger public interest."*

15. From the above, it would be evident that the Committee, after analysing the records, primarily based its decision on the fact that the petitioner is involved in a criminal case with the allegation of causing pecuniary loss to the Government revenue. The said case that is referred to is FIR No. RC-DAI-2013-A-0027. The Committee, however, failed to appreciate that the Competent Court, by its order dated 26.03.2018, that is, before consideration of the case of the petitioner by the Reviewing Committee, had already refused to even take cognizance of the said case against the petitioner. Although the same may later have been appealed by the CBI, we are informed that even a notice on this appeal has not been issued by the High Court.

16. Be that as it may, the fact that the concerned Court, at that time of consideration of the case of the petitioner by the Reviewing Committee, had refused to even take cognizance of the said criminal case against the petitioner, was an important factor to be considered by the Reviewing Committee. The same has clearly escaped its attention, thereby vitiating its entire decision.

17. Apart from that, the Reviewing Committee also observed that the ACRs/APARs of the petitioner for the period 2012-13 to 2017-18 were not available. The Reviewing Committee should have also inquired into the reasons because of which these were not available. We note this more because the learned senior counsel for the petitioner has asserted that as far as the petitioner is concerned, the petitioner had submitted his self-appraisal in time, and any default on the part of the respondents cannot prejudice the petitioner.

18. As far as the APAR for the period up to 2011-12 is concerned, we note the summary, which is evident from the records made available by the respondents to us, as under:—



19. We have also perused the APARs for the years 2008-09, 2009-

10, and 2011-12 (noting that the APAR for 2010-11 is not in the file). We find that the Reporting Officer and the Reviewing Officer have reported that the integrity of the petitioner was beyond doubt and that he was a disciplined, hardworking, and sincere officer. The Reviewing Committee, which should, in fact, be looking into the entire service record of the officer, should have also taken note of the APAR/ACRs, especially where the APAR/ACRs for the period 2012-13 to 2017-18 were not available.

20. The Reviewing Committee also observed that the petitioner was wanting in performing his duties on many occasions and involved in misconducts amounting to doubtful integrity. Apart from a mere statement, no material has been placed before us to substantiate this grave allegation against the petitioner. Even from the record of the Reviewing Committee, we do not find the same to be substantiated.

21. Given the above circumstances, we are unable to uphold the order passed by the learned Tribunal as also the orders passed by the respondents. The same are accordingly set aside.

22. We, therefore, direct that the Competent Authority of the respondents shall revisit the case of the petitioner and take an informed decision on the same, keeping in view the above factors and such other factors as may be relevant for reaching a fresh conclusion on whether the case of the petitioner deserves the exercise of powers under FR 56(j) or not. The said decision must be reached within a period of eight weeks from today. In case the decision is in favour of the petitioner, the petitioner shall be entitled to reinstatement with all consequential benefits. In case it is adverse to the petitioner, it shall be

open to the petitioner to challenge the same in accordance with law.

23. The petition is disposed of in the above terms. There shall be no orders as to costs.

24. The original record of the Department has been returned to the respondents.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 11, 2025/*rv/dk*