



2025:DHC:9386-DB



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

Reserved on: 09.10.2025
Pronounced on: 28.10.2025

+ **W.P.(C) 9057/2021**

ANIL AGGARWAL

....Petitioner

Through: Mr.Sanjiv K. Jha and
Mr.Sachin Bhatt, Advs.

versus

NORTH DELHI MUNICIPAL CORPORATION

...Respondent

Through: Mr.Anand Prakash, Standing
Counsel for MCD with
Ms.Varsha Arya, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed, challenging the Order dated 14.06.2021 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No.1700/2020, titled *Shri Anil Aggarwal v. The Commissioner, North Delhi Municipal Corporation*, dismissing the O.A. filed by the petitioner herein.

2. The limited facts relevant for the purposes of the present petition are that, in the exercise of powers under FR 56(j) read with



2025:DHC:9386-DB



Rule 48 of the CCS (Pension) Rules, 1972, the respondent passed an Order dated 31.10.2019, compulsorily retiring the petitioner from service. A representation filed against the same was also rejected by the Order dated 17.02.2020, compelling the petitioner to file the above O.A.

3. The learned counsel for the petitioner submits that the learned Tribunal has failed to appreciate that although major penalties were inflicted on the petitioner by two Orders both dated 13.04.2006, however, there was no vigilance angle involved against the petitioner. He submits that thereafter, the petitioner was also granted his first financial upgradation under the ACP Scheme *vide* Order dated 01.09.2010, and the second financial upgradation under the MACP Scheme *vide* Order dated 29.10.2015. He submits that the petitioner was also promoted to the post of Assistant Engineer (Civil), on an *ad hoc* basis, *vide* Order dated 25.10.2011, on the recommendation of the Departmental Screening Committee and with the approval of the concerned Authority. He submits that after such promotion, no disciplinary proceedings were initiated against the petitioner.

4. He further submits that the records of the ACRs/APARs of the petitioner for the period from 2011-12 to 2018-19 were consistently rated as either 'Very Good' or 'Outstanding', and reflected his integrity as 'Beyond Doubt'.

5. He submits that the Reviewing Committee appears to have taken note of the departmental proceedings initiated against the petitioner and the penalties imposed on him in the year 2006,



2025:DHC:9386-DB



however, the fact remains that five out of seven such proceedings were either dropped or resulted in his exoneration, and post his promotion in the year 2011, the petitioner was not involved in any such proceedings.

6. Placing reliance on the judgment of a Coordinate Bench of this Court in ***Ajay Kumar Sharma v. The Commissioner, South Delhi Municipal Corporation & Anr.***, 2025:DHC:4466-DB, he submits that the Impugned Order compulsorily retiring the petitioner from service cannot be sustained and deserves to be set aside.

7. On the other hand, the learned counsel for the respondent submits that in the present case, the petitioner had seven departmental proceedings initiated against him. He submits that the petitioner was also visited with two major penalties in the year 2006. He submits that taking the same into account, the Screening Committee found a fit case to be made out for compulsorily retiring the petitioner from service.

8. Placing reliance on the Judgments of the Supreme Court in ***Baikuntha Nath Das & Anr. v. Chief District Medical Officer, Baripada & Anr.***, (1992) 2 SCC 299; ***Pyare Mohan Lal v. State of Jharkhand***, (2010) 10 SCC 693 and ***Punjab State Power Corporation Ltd. & Ors. v. Hari Kishan Verma***, (2015) 13 SCC 156, he submits that the power to compulsorily retire a government servant in terms of the Service Rules is absolute, provided the concerned Authority forms a *bona fide* opinion that such retirement is in the public interest.

9. He submits that the mere grant of a promotion to the petitioner



2025:DHC:9386-DB



or the grant of ACP/MACP benefits, cannot be a ground to set aside the decision of the concerned Authority of the respondent to compulsorily retire such a government servant, especially when such government servant has been visited with major penalties on earlier occasions. He submits that in the present case, the decision to compulsorily retire the petitioner was justified, considering the major penalties imposed upon him in the year 2006. He submits that the opinion formed by the concerned Authority of the respondent is not open to be interfered with by this Court.

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

11. In ***Ajay Kumar Sharma*** (supra), a Coordinate Bench of this Court, having examined the law applicable to the cases of compulsory retirement under FR 56(j), has culled out the governing principles thereof, 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*



2025:DHC:9386-DB



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.



2025:DHC:9386-DB



- (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.”*

12. In the present case, though it is not disputed that the petitioner



2025:DHC:9386-DB



was visited with two major penalties in the year 2006, it is equally undisputed that he was later promoted to the post of Assistant Engineer (Civil), on an *ad hoc* basis, by an Order dated 25.10.2011. Post this promotion in the year 2011, the petitioner was also not involved in any departmental or police proceedings. Furthermore, the petitioner had also been granted his first financial upgradation under the ACP Scheme *vide* Order dated 01.09.2010, and the second financial upgradation under the MACP Scheme *vide* Order dated 29.10.2015. Additionally, his ACR gradings for the period from 2011-12 to 2018-19 were also consistently rated as either 'Very Good' or 'Outstanding' and his integrity was reported as 'Beyond Doubt'.

13. As held in **Ajay Kumar Sharma** (supra), before passing an order of compulsory retirement, the entire service record of the officer has to be taken into consideration, including the grading in the ACRs. The performance of the officer in the later years is of greater relevance than reliance on old and historical punishments. Once the ACRs continuously record the integrity of the officer as 'Beyond Doubt' and grade him as 'Outstanding' or 'Very Good', an order of compulsory retirement, if based on events that occurred much prior to the decision, may stand vitiated. The grant of promotion to an officer despite adverse entries in his confidential record is also a significant factor.

14. Given the above factors, we are unable to sustain the Impugned Order passed by the learned Tribunal, and equally are unable to sustain the Order dated 31.10.2019 compulsorily retiring the petitioner from service as also the Order dated 17.02.2020 rejecting the



2025:DHC:9386-DB



representation of the petitioner thereagainst.

15. The petitioner shall be reinstated in service with immediate effect from the date of this order. He shall be entitled to all consequential benefits, including deemed continuous service from the date of the order of compulsory retirement, notional fixation of pay, annual increments, promotional benefits (if any), and all other service benefits, that would have accrued to him. However, the petitioner shall not be entitled to back wages for the period during which he remained out of service.

16. The consequential orders for reinstatement and restoration of benefits shall be passed by the respondent within a period of four weeks from today, and the petitioner shall be allowed to resume duties within the same period.

17. The petition is allowed in the above terms.

NAVIN CHAWLA, J.

MADHU JAIN, J.

OCTOBER 28, 2025/ik/SJ