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

Reserved on: 25th February, 2025

Pronounced on: 17 April, 2025

+ W.P.(C) 7150/2018, CM APPLs. 27279/2018, 32767/2018
& 48900/2018

UNION OF INDIA AND ANR.

.....Petitioners

Through: Mr. Amit Tiwari, CGSC with
Ms. Ayushi Srivastava and Mr. Ayush
Tanwar, Advs for P-1.

Mr. Apoorv Shukla, Standing Counsel with
Mr. Prabhleen A. Shukla, Advs. for P-2.

versus

BABULAL AGRAWAL

.....Respondent

Through: Mr. Biswajit Bhattacharya, Sr.
Adv. with Mr. Utsav Saxena, Mr. Kartikey
Singh, Mr. Rahul Aggarwal and Mr. Ronit
Bose, Advs.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT

17.04.2025

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AJAY DIGPAUL, J.

1. The present writ petition has been filed assailing an order of the
Central Administrative Tribunal¹ dated 5 April 2018 in OA

Signature Not Verified
¹ "the Tribunal" hereinafter

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Signing Date: 17.04.2025
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2208/2017, wherein the Tribunal set aside the order of compulsory retirement that was passed by Petitioner 1/ Union of India² in exercise of powers conferred under Rule 16(3) of the All India Services (Death-cum-Retirement benefits) Rules, 1958³, against the respondent⁴ on 9 August 2017, which was then confirmed by Petitioner 2/ State Government of Chhattisgarh *vide* order dated 11 August 2017.

2. Situated at the epicentre of action initiated by various Government agencies, including that of the Department of Income Tax⁵, Central Bureau of Investigation⁶, Economic Offences Wing/ Anti Corruption Bureau⁷, and the Enforcement Directorate⁸, Babulal has been alleged of numerous offences involving financial misappropriation, disproportionate assets, misuse of public office, and violation of service conduct rules.

3. Babulal was appointed as an Indian Administrative Service⁹ officer of the 1988 batch and was initially allotted to the Madhya Pradesh cadre. Following the formation of the State of Chhattisgarh, he was transferred to the cadre of Chhattisgarh State and has rendered 29 years of service.

4. The genesis of the dispute appears to be when he was subjected to a search by the IT Department on 4 February 2010, where cash

² UOI

³ “the Rules” hereinafter

⁴ “Babulal” hereinafter

⁵ IT Department

⁶ CBI

⁷ EOW/ACB

⁸ ED

⁹ IAS



amounting to ₹5,04,798/- along with jewellery valued at ₹3.76 lakhs were seized. However, the amounts seized were returned due to it being accounted for in the books of Babulal and his wife. Simultaneous search and seizure were conducted on the business premises of his brothers, which led to the reopening of assessment proceedings against him and resulted in the levy of a total tax demand of ₹13,464/- for FY 2007-08.

5. The demand was set aside *vide* order dated 31 May 2012. This order was appealed before the Income Tax Appellate Tribunal¹⁰ only to be rejected *vide* order dated 9 January 2017.

6. Babulal was placed under suspension for violation of Rule 3(1) of the All India Services (Conduct) Rules, 1968, from 10 February 2010 to 4 June 2010. The Rule stands reproduced below:

“3(1) Every member of the Service shall at all times maintain absolute integrity and devotion to duty and shall do nothing which is unbecoming of a member of the Service. 5 (1A) Every member of the Service shall maintain:-

- (i) high ethical standards, integrity and honesty;
- (ii) political neutrality;
- (iii) promoting of the principles of merit, fairness and impartiality in the discharge of duties;
- (iv) accountability and transparency;
- (v) responsiveness to the public, particularly to the weaker section;
- (vi) courtesy and good behavior with the public”

7. Thereafter, numerous cases were registered against Babulal, the details of which are as follows :



i. FIR 6/2010 dated 19 February 2010 registered by Economic Offences Wing/ Anti Corruption Bureau, Chhattisgarh

Allegations were made against Babulal pertaining to the violation of Sections 13 (1) (e) and 13 (2) of the Prevention of Corruption Act, 1988¹¹, for routing amounts totalling to just above ₹62 crore through 446 accounts, shell companies, and sister concerns of M/s Prime Ispat Ltd (a company managed by brothers and other family members of Babulal) and finally invested as equity in the said company.

An IT raid conducted against him resulted in seizure of ₹68.10 lakh in cash, jewels worth ₹70.20 lakh, and other assets worth ₹12.50 Cr. These amounts exclude the results of search and seizure conducted upon the business premises of Babulal's brothers. However, the EOW filed a closure report and the matter has concluded since.

ii. ECIR dated 10 January 2011 registered by Enforcement Directorate, Nagpur

Allegations of offences under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002¹² were made against Babulal. A closure report has been filed and the matter has concluded since.

iii. RC dated 31 December 2010 registered by CBI, Chhattisgarh

¹¹“PCA” hereinafter

¹²“PMLA” hereinafter



Allegations of offences under the Indian Penal Code, 1860¹³, Section 120-B r/w Sections 419, 420, 467, 468, 471, 477A, and Section 13(2) r/w Section 13(1)(d) of the PCA were made against Babulal, with a ₹15 lakh recovery made by the IT Department. This Court has stayed the arrest of Babulal in WPC 8052/2011, and the matter is at the pre-charge stage. The State Government of Chhattisgarh declined sanction to prosecute Babulal under Section 6 of the Delhi Special Police Establishment Act, 1946¹⁴ on four separate occasions between 2014-2016.

iv. RC dated 4 January 2010 registered by CBI, EOU VII, New Delhi

Allegations of misappropriation of around ₹21 crore of public funds were made against Babulal. These funds were sanctioned by the Ministry of Health and Family Welfare in 2005-06 for the implementation of World Bank aided enhanced Malaria Control Programme in Chhattisgarh. The case is pending sanction to prosecute, to be provided by the State Government of Chhattisgarh.

v. RC dated 18 February 2017 registered by CBI ACU, AC II, New Delhi

¹³“IPC” hereinafter

¹⁴“DSPE Act” hereinafter



In this trap case, allegations were made by the CBI, as also recorded in the judgment of a coordinate bench of this Court dated 8 October 2018 in WP (Crl) 791/2018 titled **Anand Agarwal v UOI**, that two earlier cases had been registered against Babulal (brother-in-law of **Anand Agarwal**, petitioner in the above-mentioned case).

The two cases referred to are noted by us at iii) and iv) (*supra*).

According to the CBI, these two cases were a hurdle to Babulal's empanelment for central deputation, and he intended to hasten their closure and ensure their subsequent reference to the EOW.

The CBI alleged that Babulal had entered into a criminal conspiracy with other co-accused in an attempt to settle the cases registered against him by payment of a bribe of ₹1.5 crore to concerned public servants. This sum was agreed to be transferred in payments that would comprise both cash and gold. The CBI claims to have intercepted Anand Agarwal upon his delivery of 2kgs of gold to the concerned individual on behalf of Babulal on 18 February 2017. It was also revealed during investigation that an amount of ₹40 lakh in cash was also delivered to co accused by Babulal via Hawala channels.

A chargesheet under Section 120-BIPC r/w Section 8PCA was filed before Patiala House Court. ACFSL report and supplementary charge sheet stand filed in the matter. He was



granted bail by the Court in connection with his arrest on 5 May 2017.

8. In the interregnum, between events detailed at para 7 (iv) and (v) (*supra*), a Review Committee was constituted to assess the service records of officers who had completed 15/ 25 years of service to determine their suitability for continued employment in the services. Babulal fell into the latter category, i.e., having completed 25 years of service. In its meeting dated 15 October 2015, the committee considered Babulal, among others, for compulsory retirement under Rule 16(3), wherein he was allowed to continue in service.

9. Babulal had applied for vigilance clearance on 24 February 2016 to the Department of Personnel and Training¹⁵ to facilitate his central deputation. He was denied vigilance clearance by the DOPT on 1 September 2016, citing DOPT OM dated 29 October 2007. In their reply before the Tribunal in OA 2208/2017, as recorded at para 12 of the impugned order, the DOPT listed relevant factors that prevented vigilance clearance from being issued to Babulal. These considerations detailed the various cases against him as we have recorded at para 7(*supra*), along with numerous other complaints, his suspension, *inter alia*.

10. Upon receipt of a letter dated 21 February 2017 sent by the UOI to the State of Chhattisgarh regarding Babulal's arrest in connection with CBI FIR dated 18 February 2017, he was placed under immediate



suspension due the pending criminal investigation against him. His suspension spanned from 22 February 2017 until 9 August 2017.

11. Thereafter, OA 2208/2017 was filed by Babulal before the Tribunal, assailing the denial of his vigilance clearance by the DOPT, *inter alia*. During the pendency of this OA, a Review Committee was constituted on 13 April 2017 to assess Babulal's suitability for compulsory retirement under Rule 16(3) in light of the CBI FIR of 2017 and his subsequent arrest.

12. It is on the findings and recommendation of this committee that an order of compulsory retirement under Rule 16(3) dated 9 August 2017 was passed by the UOI against Babulal due to "*grave doubts on the integrity of the officer*", and this order was confirmed on 11 August 2017 by the State of Chhattisgarh.

13. Babulal filed an MA before the Tribunal to amend his prayer in OA 2208/2017 to include a challenge against these orders of compulsory retirement passed against him, and stated that he would not be pressing his relief against the denial of his vigilance clearance at that stage.

14. The impugned order held that Babulal ought not to have been compulsorily retired. It relied on his ACRs for the preceding five years, wherein his overall gradings ranged between 8.05 and 9.5, save for the year 2014-15, which was a "no report" period. Apart from this, it held that the convening of the 2017 Review Committee was against



settled principles of law, and, that in its view, the very cornerstone for the 2017 Review – action initiated by the IT department and the ED, failed.

15. The Tribunal also declared that mere allegations were not sufficient to establish doubt against an officer's integrity, and the same must have been proven through departmental or criminal proceedings.

16. Lastly, the Tribunal observed that a departmental enquiry ought to have been conducted as the order of compulsory retirement was punitive in nature and passed specifically to avoid the institution of disciplinary proceedings. It also emphasised that consideration must be given to Babulal's promotion which covered 'the entire period of allegations against him'.

17. Heard learned Counsel for the parties.

18. Mr. Tiwari, learned Central Government Standing Counsel who appears for Petitioner 1, has advanced the following submissions in favour of the order of compulsory retirement passed against Babulal:

- a) The Tribunal failed to consider that an Order passed under Rule 16(3) is subject to a limited scope of judicial review, in line with the observations of the Supreme Court in *State of Gujarat v Umedbhai M. Patel*¹⁶, *Baikuntha Nath Das v Chief*



*Medical Officer, Baripada*¹⁷, *Pyare Mohan Lal v State of Jharkand*¹⁸, and *K. Kandaswamy v UOI*¹⁹, and may only be entertained on the grounds of mala fides, arbitrariness, or a lack of material; and

- b) There was no bar to holding the second review of 2017; and
- c) The second review considered the entire service record pertaining to Babulal and its findings and recommendations were just, reasonable, and fair; and
- d) The FIRs registered against Babulal were concerning offences of grave nature that cast doubt on his integrity.

19. Mr. Biswajit Bhattacharya, learned Senior Counsel appearing for the respondent, has advanced the following lines of argumentation assailing the order of compulsory retirement passed against Babulal :

- a) The second review conducted was impermissible; and
- b) The second review failed to consider the entirety of his service records and was contrary to the object of Rule 16(3) as well as the law laid down in the Supreme Court's judgment in *Umedbhai M. Patel*; and
- c) Mere registration of FIRs does not make an officer suitable for compulsory retirement.

¹⁷(1992) 2 SCC 299

¹⁸(2010) 10 SCC 693

¹⁹(1995) 6 SCC 162



Analysis

20. At the outset, it would be imperative to clarify that we are confined to the determination of whether the order of compulsory retirement passed under Rule 16(3) is capable of standing on its own legs. We deem it appropriate to reproduce the Rule in its entirety: -

“16(3) The Central Government may, in consultation with the State Government concerned, require a member of the service to retire from service in public interest after giving such Member at least three month’s previous notice in writing or three month’s pay and allowances in lieu of such notice, -

(i) after the review when such Member completes 15 years of qualifying Service; or

(ii) after the review when such Member completes 25 years of qualifying Service or attains the age of 50 years, as the case may be, or

(iii) If the review referred to in (i) or (ii) above has not been conducted after the review of any other time as the Central Government deems fit in respect of such Member.

Explanation :- For the purposes of sub-rule (3), “review” of the entire service record of the Member of the Service regarding suitability or otherwise of such Member for further retention in the Service to be conducted regularly of each Member of such Service, firstly, after his completion of 15 years of qualifying Service and secondly, after his completion of 25 years of qualifying Service or on his attaining the age of 50 years, as the case may be, or if the review referred to in clauses (i) or (ii) of this sub-rule has not been conducted in respect of such Member, such review may be conducted at any other time as the Central Government deems fit.”

Object of Rule 16(3)

21. An order of compulsory retirement made under the Rule takes the form of emergent action against an officer of the services by the



Central Government, where it decides that the efficiency and/or integrity of the services require protection.

22. It is a settled position of law, right from *Shyam Lal v State of U.P.*²⁰ and *UOI v Col. J.N. Sinha*²¹, to *State of U.P. v Chandra Mohan Nigam*²² and *UOI v M.E. Reddy*²³, that an order under Rule 16(3) is made in public interest to preserve the efficiency of the services and to safe guard its integrity from the corrosion of corruption. It is on this note that we deem it appropriate to reproduce paras 11 and 12 of the judgment in *M.E. Reddy*: -

“11. It seems to us that the main object of this rule is to instil a spirit of dedication and dynamism in the working of the State Services so as to ensure purity and cleanliness in the administration which is the paramount need of the hour as the Services are one of the pillars of our great democracy. *Any element or constituent of the Service which is found to be lax or corrupt, inefficient or not up to the mark or has outlived his utility has to be weeded out. Rule 16(3) provides the methodology for achieving this object...* Compulsory retirement contemplated by the aforesaid rule is designed to infuse the administration with initiative and activism so that it is made poignant and piquant, specious and subtle so as to meet the expanding needs of the nation which require exploration of “fields and pastures new”. *Such a retirement involves no stain or stigma nor does it entail any penalty or civil consequences. In fact, the rule merely seeks to strike a just balance between the termination of the completed career of a tired employee and maintenance of top efficiency in the diverse activities of the administration.*

12. *An order of compulsory retirement on one hand causes no prejudice to the government servant who is made to lead a restful life enjoying full pensionary and other benefits and on the other gives a new animation and equanimity to the Services. The employees should try to understand the true spirit behind the rule*

²⁰(1955) 1 SCR 36

²¹(1970) 2 SCC 458

²²(1977) 4 SCC 345

²³(1980) 2 SCC 15



which is not to penalise them but amounts just to a fruitful incident of the Service made in the larger interest of the country...”
(emphasis supplied)

Challenge to an Order under Rule 16(3)

23. As held in *M.E. Reddy, inter alia*, Rule 16(3) provides an absolute right to the Government to retire an employee and even dispenses with the requirement of conforming with principles of natural justice, since it is neither an order of punishment bringing civil consequences, nor stigmatic in any way. However, this absolute right is definitely within, to a limited extent, the ambit of judicial review and interference. Para 10 of the judgment in *M.E. Reddy* warrants reproduction to that extent:

“...The safety valve of public interest is the most powerful and the strongest safeguard against any abuse or colourable exercise of power under this rule... Moreover, when the Court is satisfied that the exercise of power under the rule amounts to a colourable exercise of jurisdiction or is arbitrary or mala fide it can always be struck down. While examining this aspect of the matter the Court would have to act only on the affidavits, documents, annexures, notifications and other papers produced before it by the parties. It cannot delve deep into the confidential or secret records of the government to fish out materials to prove that the order is arbitrary or mala fide...”

(emphasis supplied)

24. The principles outlining the grounds upon which an order passed under Rule 16(3) may be challenged have crystallised in the full bench judgment of the Supreme Court in *Baikuntha Nath Das*, para 34 of which merits reproduction:

“34. The following principles emerge from the above discussion:



(i) An order of compulsory retirement is not a punishment. It implies no stigma nor any suggestion of misbehaviour.

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

(iii) Principles of natural justice have no place in the context of an order of compulsory retirement. *This does not mean that judicial scrutiny is excluded altogether. While the High Court or this Court would not examine the matter as an appellate court, they may interfere if they are satisfied that the order is passed (a) mala fide or (b) that it is based on no evidence or (c) that it is arbitrary — in the sense that no reasonable person would form the requisite opinion on the given material; in short, if it is found to be a perverse order.*

(iv) The Government (or the Review Committee, as the case may be) shall have to consider the entire record of service before taking a decision in the matter — of course attaching more importance to record of and performance during the later years. The record to be so considered would naturally include the entries in the confidential records/character rolls, both favourable and adverse. If a government servant is promoted to a higher post notwithstanding the adverse remarks, such remarks lose their sting, more so, if the promotion is based upon merit (selection) and not upon seniority.

(v) An order of compulsory retirement is not liable to be quashed by a Court merely on the showing that while passing it uncommunicated adverse remarks were also taken into consideration. That circumstance by itself cannot be a basis for interference.”

(emphasis supplied)

25. Therefore, the challenge to the order of compulsory retirement must be sustainable on any one of the three grounds of *mala fides*, arbitrariness, or a lack of material considered while recommending an officer's compulsory retirement under Rule 16(3).

Whether a Second Review may be Permissible



26. Mr. Tiwari submits that the exceptional circumstances in the case of Babulal warranted the conduction of a second review, and that the same is not barred by law. *Per contra*, Mr. Bhattacharya sought to persuade the Court that it was impermissible to convene the Review Committee of 2017 under Rule 16(3) in light of the preceding review of 2015.

27. On the subject of the permissibility of a second review, a rider in the form of “*exceptional circumstances*” has been observed by a full bench of the Supreme Court in ***Chandra Mohan Nigam***. Para 27 of the judgment has been reproduced for ready reference:

“27. Whether all the aforesaid instructions issued by the Government are mandatory or not do not call for a decision in these appeals. Some of them may not be mandatory. Not that every syllable in the instructions is material. Some of them may be described as prefatory and clarificatory. *However, one condition is absolutely imperative in the instructions, namely, that once a Review Committee has considered the case of an employee and the Central Government does not decide on the report of the Committee endorsed by the State Government to take any prejudicial action against an officer, after receipt of the report of the committee endorsed by the State Government, there is no warrant for a second Review Committee under the Scheme of Rule 16(3) read with the instructions to reassess his case on the same materials unless exceptional circumstances emerge in the meantime or when the next stage arrives. We should hasten to add that when integrity of an officer is in question that will be an exceptional circumstance for which orders may be passed in respect of such a person under Rule 16(3), at any time, if other conditions of that rule are fulfilled, apart from the choice of disciplinary action which will also be open to Government.* Although a faint attempt was made before the learned Single Judge that fresh facts were available for the purpose of the second Review Committee, the High Court did not accept the position nor do we find any reason to differ from that opinion. It is, therefore, clear that the respondent's order of termination was made not as a result of the report of the first Review Committee in accordance with the instructions but on the recommendation of the second Review Committee



which could not have taken up his case, as it was, on the self-same materials prior to his reaching the age of 55 years.”

(emphasis supplied)

28. The sequitur to emerge is that, *normally*, a second review of an officer who has been previously reviewed in accordance with Rule 16(3)(i) or Rule 16 (3) (ii) is not warranted where the Government decides not to take any prejudicial action against an officer despite the recommendations of the review committee. This is not the case before us, given that the 2015 committee did not recommend that Babulal be compulsorily retired. *However*, what is relevant, is the observation of exceptional circumstances and additional material pertaining to the officer that has come to light after the convening of his/her first review. Therefore, in case exceptional circumstances emerge thereafter, a second review may be in order, especially when the integrity of an officer is doubted.

29. The relevance of the rider contained within para 27 of ***Chandra Mohan Nigam*** to the facts before us become clear upon perusal of the minutes of meeting recorded by the second Review Committee on 13 April 2017, which have been reproduced below:

“In view of the arrest by CBI of Dr.B.L.Agarwal, IAS(1988) on 21 02 2017 in a case registered by the Bureau on 18.02.2017 U/s 120-B IPC r/w Sec. 8 of Prevention of Corruption Act, 1988 against him and two others, his name was also included in the zone of consideration for review.”

“2/ **Dr.B.L.Agarwal (IAS: 1988)**

Following cases are pending against Dr.B.L.Agarwal (IAS: 1988) at present:-

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WP(C) 7150/2018



1. Head of Branch, CBI, ACB, Bhilai (CG) has registered FIR No. RC 1242010A009 in December, 2010 under Section-120 (B) read with 419, 420, 467, 468, 471 and 477A IPC and section -13 (2) read with Section - 13(1d) of Prevention of Corruption Act, 1988 for criminal misuse of office. After preliminary investigation, a Charge Sheet under Section- 120(B) read with Section -419, 466 and 477A IPC has been put up in the Court of Special Magistrate, CBI Raipur on 17.11.2011. Presently the case is in progress and at pre-charge stage. Shri B.L. Agrawal has filed Petition No. 8052/2011, in the High Court of Delhi, challenging the action taken by CBI. High Court of Delhi has granted interim relief on 18.11.2011, "till the date of next hearing, the petitioner shall not be arrested." and that interim order continues till date. Proceedings in trial court are not stayed and in progress and awaits framing of charges by the court.

2. Permission for prosecution is sought by Mrs. Binita Thakur, Dy. Inspector General of Police, CBI (EO-III), New Delhi vide their Letter u/r No. 1169/01/2010 EOU-VII/N. Delhi for two criminal conspiracies i.e.

"(a) That Shri B.L. Agrawal, the then Secretary Health, Dr. Pramod Singh, the then Jt. Director, Shri Sunder Lal Patel, the then Store Clerk, Shri OM prakash Verma, the then store keeper, all. from the office of Director General, Health. Services, Chhattisgarh entered into a criminal conspiracy with Shri Ashok Nihichilani, Shri Anil Nihichalani, Shri Sunil Nihichalani, Shri Murlidhar Kamnani and Shri Santosh Ramani, and by abusing their official position caused a wrongful loss of Rs. 3,74,34,266.00 and corresponding gain to themselves.

(b) That Shri B.L. Agrawal, then Secretary Health, Dr. Pramod Singh, the then Jt. Director and Shri Sunder Lai Patel, the then Store Clerk, all from O/o Director General Health Services, Chhattisgarh entered into a criminal conspiracy with Shri Navjeet Singh Tuteja, Mrs. Shailina Parveen and Shri SalinUmrani and by abusing their official position caused a wrongful loss worth Rs. 24,86,656.00 and corresponding gain themselves".

The State Government has refused to grant sanction for prosecution on-ground of want of jurisdiction of CBI. The matter is pending in CBI.



3. CBI, AC-II, New Delhi branch vide letter dated 21.02.2017 intimated to the State Government that CBI has arrested Dr. B.L. Agrawal IAS (CG:1988), Principal Secretary, Higher Education, Chhattisgarh Govt., on 21.02.2017 in a case registered by the Bureau on 18.02.2017 U/s 120-B IPC r/w Sec. 8 of Prevention of Corruption Act, 1988 against him and two others. The CBI informed in its letter that during the investigation of the case, the residential premises of Dr. B.L. Agrawal at Raipur, were searched. The officer was arrested on 21.02.2017 at 08:02 AM to be produced before the court of Spl. Judge for CBI cases, Patiala House Courts, New Delhi. On Receipt of the above information the State Government having examined the CBI's report against Dr. Agrawal invoked Sub rule 3 of IAS (D &A) rules 1969, and accordingly Dr. B.L. Agrawal, IAS (CG: 1988) has been suspended by the State Government vide Order No. E2-5/2017/1/2 dated 21.02.2017.

Recommendations:

The above mentioned facts cast grave doubts on the integrity of the officer therefore committee recommends that his continuation in service is not in the interest of administration, and he be retired in public interest.

30. Here, we find that claims of arbitrariness based on the mere conduction of a second review to be devoid of merit. The committee, at the outset, provides its reason for Babulal's inclusion in the zone of consideration of the review to be his arrest by the CBI on 21 February 2017 due to the case registered against him on 18 February 2017. These are circumstances which, irrefutably, took place after the conduction of the 2015 review, and they satisfy the rider laid down in *Chandra Mohan Nigam*.

31. Proceeding further down the list of arguments raised before us, learned Senior Counsel for the respondent sought to impress upon this court that the phrase "entire service record" must include Babulal's ACRs for the relevant period, and that these ACRs having recorded no



adverse remarks against him would lead to the conclusion that the committee's recommendation of compulsory retirement was incorrect. To this, Mr. Tiwari disagrees vehemently. He submits that Babulal's entire service history has been considered before recommending his compulsory retirement, which is inclusive of both his relevant ACRs, as well as complaints issued against him, *inter alia*.

32. Mr. Bhattacharya's submission appears to be premised on the interpretation that the committee's scrutiny must be limited to the officer's ACRs and any adverse remarks contained therein, or at the very least, that his ACRs are to be given a greater weightage than the CBI action and complaints against him.

33. It is factually correct that Babulal's ACRs for the preceding five years were meritorious, and that he was even promoted retrospectively to the post of Principal Secretary *vide* order dated 30 July 2015 with effect from 27 July 2012. However, to our understanding, the phrase "entire service record" cannot be interpreted to the exclusion of complaints against an officer/ allegations of his involvement in criminal cases.

34. The claim that Babulal's ACRs were, in fact, taken into consideration before recommending his compulsory retirement is buttressed by para 4 of the 2017 committee's minutes, which have been reproduced below: -

"Records of officers for retirement in public interest under Rule 16(3) of AIS (DCRB) Rules, 1958 were reviewed keeping in mind

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WP(C) 7150/2018



the instructions as illustrated above. The records were reviewed to assess doubtful integrity, inefficiency and ineffectiveness of officers who were not contributing to public service. **The service records, which were taken into consideration include-**

***ACR/PAR**

***Personal file**

***History of entire service**

***Status of Departmental Enquiry, if any**

***Confidential reports throughout the period of service**

***Complaints against the officers”**

(emphasis supplied in bold)

35. We observe here that ACR's of the officers under review have been considered. Furthermore, among the relevant records that constitute the basis for such review, complaints against officers form a necessary factor in determining whether he may be recommended for compulsory retirement.

36. Therefore, upon a holistic reading of the relevant facts, we are unimpressed by the submission that “entire service record” of an officer begs the interpretation of prioritising positive ACR entries over complaints against the officer – especially when these complaints are of such gravity that they attract numerous investigations across different states by the CBI.

37. With respect to the contention that the order of compulsory retirement passed against Babulal was contrary to the law laid down in the Supreme Court's judgment in *Umedbhai M. Patel*, we find clear distinguishability of the aforementioned judgment from the facts that are before us. In *Umedhbhai*, the respondent had been placed under suspension pending disciplinary proceedings. His ACRs were



meritorious, and he had no pending complaints against him except that of the ongoing disciplinary proceeding.

38. The State Government, having not completed the enquiry in time, proceeded with an order of compulsory retirement against him during the pendency of disciplinary proceedings, at a time where he was set to superannuate within the next year and a half.

39. Furthermore, the Review Committee constituted to assess *Umedbhai* did not find him suitable to be compulsorily retired. Yet, an order of compulsory retirement was passed against him. Therefore, the Court, upon holding that the order of compulsory retirement was both, passed to circumvent disciplinary proceedings, as well as passed against the recommendations of the Review Committee, declared the order of compulsory retirement against *Umedbhai* to be punitive in nature and set the same aside.

40. We shall now consider whether the mere existence of FIRs against an officer warrant his recommendation for compulsory retirement under Rule 16 (3).

41. To our understanding, the exact reason for Babulal's compulsory retirement is to be found under the heading titled "**Recommendations**" in the minutes of the 2017 meeting. Here, it is stated, in no uncertain terms, that his service has been declared as being "*not in the interest of administration*" due to "*grave doubts on the integrity of the officer*".



42. It is imperative to note here that these are not mere FIRs, but they are multiple investigations by the CBI concerning serious allegations against Babulal. Furthermore, these FIRs do not appear to be the first insinuation against Babulal's lack of integrity as an officer of the services. They have been preceded by suspension on the ground of deficiency in his character and integrity, as well as enquires initiated by various Government Agencies as mentioned in para 2 (*supra*). Collectively, considering the sheer volume of complaints against the officer, as well as the gravity of offences alleged therein, we do not deem it unreasonable that he has been found to be of doubtful integrity.

43. The very phrase – “*doubtful integrity*” implies the satisfaction of a threshold which is significantly lower than if the officer's conviction in connection to relevant FIRs is to be interpreted as a pre-requisite to pass an order of compulsory retirement against him. There appears to be a conflation of the threshold of doubtful integrity with that of conviction in a criminal case, the latter of which requires proving the charges against an officer beyond reasonable doubt. Therefore, this argument does not impress the Court.

44. Furthermore, considering the object and nature of orders passed under Rule 16 (3) as being non-stigmatic nor punitive, mandating the conviction of an officer in criminal cases to justify his characterisation as having “*doubtful integrity*” would be inappropriate. In such cases, where an officer has been convicted, it would be unjust to bid him



farewell from the services with a mere tap on the wrist. Such an officer, if compulsorily retired, would still enjoy all retiral benefits with no punitive action against him, despite being convicted in a criminal case.

45. Therefore, we would like to reiterate our reasons for disagreeing with the impugned order of the Tribunal: -

I. Grave Doubt on Integrity

- a. The Tribunal overlooked the recommendations made by the 2017 Review Committee and its finding that the relevant facts considered cast grave doubt on Babulal's integrity, based on multiple serious allegations and FIRs against him.
- b. The allegations are substantial to cast grave doubt on the respondent's integrity, which is a crucial factor for public service.
- c. The Tribunal was incorrect in holding that allegations against an officer ought to have been proven through departmental or criminal proceedings before an order to compulsorily retire him may be passed.

II. Pending Investigations involving Serious Charges



- a. The respondent was involved in several ongoing investigations by CBI and the Enforcement Directorate, including FIRs registered under various provisions of IPC and the PCA. The mere existence of these investigations and the respondent's arrest by CBI indicate significant concern about his conduct and integrity.
- b. The order of the Tribunal seems to ignore the sheer volume of the complaints raised against the officer, as well as the gravity of the allegations against him. The FIRs against Babul comprise allegations of corruption, criminal misuse of office, criminal conspiracy, money laundering, and misconduct due to violation of service rules.
- c. The Tribunal's judgment does not adequately address the implications of these pending investigations on the respondent's suitability for continued service. This is apparent from its holding that the basis for the 2017 Review was to be found in the IT department and ED action against Babulal, rather than the CBI FIR of 2017 and his subsequent arrest, as stated clearly in the MoM of the 2017 Review Committee.
- d. In fact, the very same paragraph contained within the 2015 Review Committee's MoM was relied upon by the Tribunal to establish that Babulal's entire record was



taken into account before making its decision. This paragraph is also present, verbatim, in the 2017 Review Committee's MoM, but has been ignored in its entirety.

III. Denial of Vigilance Clearance

- a. The DOPT denied Vigilance Clearance to the respondent based on detailed reports from relevant Government agencies as well as departmental suspension, which highlighted serious concerns about his financial dealings and integrity.
- b. The DOPT's decision was based on a comprehensive assessment and should not have been dismissed lightly. The denial of vigilance clearance is a significant factor to consider while gauging the integrity of an officer of the services, and it should have been given due weightage by the Tribunal.

IV. Public Interest

- a. Babulal's compulsory retirement was ordered in Public Interest, as per Rule 16(3), due to grave doubts against his integrity. The Rule is designed to maintain high standards of efficiency and integrity in public service, and the decision to retire the respondent was made after careful consideration by the Review Committee and the Appointments Committee of Cabinet.



- b. The Tribunal's judgment does not sufficiently consider the importance of maintaining public trust and integrity in the administrative services. On the contrary, the Tribunal has observed that instead of taking action as per Rule 16(3), the petitioners should have opted for a departmental enquiry and that appropriate action could have been taken after the conclusion of a departmental enquiry.
- c. We fail to understand why, when a specific provision of law allows the department to take immediate action, it was suggested that a departmental enquiry should have been conducted instead. Rule 16(3) permits immediate action in cases where the delinquent official is suspected of being engaged in activities that require intervention in public interest.
- d. The two provisions are not comparable. The power under Rule 16(3) deals with situations where urgent action is required to preserve the integrity and efficiency of the services in view of larger public interest. Disciplinary proceedings are punitive and stigmatic, unlike an order under Rule 16(3). They are neither interchangeable, nor share the same object and purpose.
- e. The Tribunal's judgment emphasizes upon the impermissibility of a second review. However,



exceptional circumstances, such as new allegations and ongoing investigations coupled with doubts against the officer's integrity, justify a second review. This is buttressed by the Supreme Court's observations in *Chandra Mohan Nigam*.

Conclusion

46. We make it clear that none of our observations are a decision on the merits pertaining to Babulal's innocence or guilt in the cases registered against him. We have simply assessed the entirety of his service record to ascertain whether the decision to compulsorily retire him ought to have been interfered with – according to the object and purpose of orders of compulsory retirement passed under Rule 16(3).

47. In light of the above deliberation, we conclude that the Tribunal has erroneously set aside the order of compulsory retirement passed against Babulal.

48. Order of the Tribunal dated 5 April 2018 in OA 2208/2017 is hereby quashed and set aside. Orders of compulsory retirement passed against Babulal by Petitioner 1/UOI dated 9 August 2017 and Petitioner 2/ State of Chhattisgarh dated 11 August 2017 are upheld.

49. The writ petition is allowed in aforesaid terms. Pending applications do not survive and are disposed of accordingly.



50. No orders as to costs.

AJAY DIGPAUL, J.

C.HARI SHANKAR, J.

APRIL 17, 2025

Click here to check corrigendum, if any