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

Date of Decision: 05th May, 2026

+ **W.P.(C) 1274/2024**

PRASANT KUMAR SATAPATHY

.....Petitioner

Through: Mr. Dhananjaya Mishra, Mr. Navneet
Dogra and Mr. Amritesh Mohanty,
Advocates.

versus

FOOD CORPORATION OF INDIA & ORS.Respondents

Through: Mr. Manoj and Ms. Aparna Sinha,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA,J. (ORAL)

CM APPL. 30134/2026 (for early hearing)

1. For the grounds and reasons stated in the application, the same is allowed. The writ petition is called on Board today itself with the consent of the counsels.

2. Disposed of.

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3. The Petitioner assails the order dated 19th May, 2023 whereby he was prematurely retired from the service of the Food Corporation of India under Regulation 22(2A) of the Food Corporation of India Staff Regulations, 1971, and the consequential order dated 20th July, 2023 whereby his



representation came to be rejected.

4. The challenge, though directed against an order of compulsory retirement in public interest, raises a pertinent question as to the manner in which such power is to be exercised when the employer has chosen to bind itself to structured criteria under its own Circular dated 09th July, 2021 and when the officer concerned carries a recent record of promotions and consistently high annual appraisals.

5. The law governing compulsory retirement is well settled. The power is, no doubt, wide; but it is not unbridled. As the Supreme Court has repeatedly held, an order of compulsory retirement is ordinarily neither punitive nor stigmatic; yet the breadth of the power does not place it beyond judicial review. The formation of opinion is subjective, but it must rest on relevant material, consideration of the entire service record, and a bona fide assessment of public interest, with due primacy to the later years of service. Judicial review in such matters is undoubtedly narrow; however, it is not illusory. Interference is warranted where the order is shown to be mala fide, founded on no evidence, based on collateral or extraneous considerations, or so arbitrary that no reasonable authority, properly instructed in law, could have arrived at such satisfaction. It is in the light of these settled principles that the present case must be examined.

Facts

6. The Petitioner was selected pursuant to a recruitment process initiated in 1998 for the post then known as Assistant General Manager (Technical). Though candidates placed above him in the merit list came to be appointed in January 2000, the Petitioner was not permitted to join, compelling him to approach the High Court of Orissa for relief. By order dated 17th July, 2003,



the Orissa High Court directed that he be absorbed; the Board of Directors approved his appointment with the observation that he should not suffer adversely because of the circumstances in which the appointment was made, and he joined service on 26th September, 2003 against the 1999 direct recruitment panel.

7. The Petitioner's service career thereafter was marked by a series of disputes concerning promotion and gradation. He was again required to approach the High Court of Orissa in relation to non-consideration for promotion and correction in gradation, and by orders dated 24th January, 2020 the said Court held the non-consideration of his case for promotion to be illegal and directed that he be promoted from the date his immediate juniors were promoted. In appeal, the Division Bench, by order dated 10th May, 2023, modified the direction only to the extent of denying actual salary in the promoted post, while affirming that the Petitioner was entitled to notional promotion from the date his juniors were promoted and that such promotion would count for seniority and retiral benefits.

8. In the interregnum, the Food Corporation of India amended its Staff Regulations and issued Circular No. EP-01-2021-24 dated 09th July, 2021,¹ laying down guidelines for periodic review of employees for premature retirement in public interest. The circular adopts, almost verbatim, the framework contained in the DoPT Office Memorandum dated 28th August, 2020,² including the criteria of doubtful integrity, ineffectiveness, prior review, changed circumstances, visible meticulousness, and consideration of the entire service record with due emphasis on later years.

¹ "the governing circular"

² "DoPT OM"



9. It is not in dispute that the Petitioner's case had already undergone review on his attaining the prescribed age threshold and that, upon such review in February 2017, he was expressly retained in service. It is equally undisputed that he was thereafter promoted to the post of General Manager in 2019 and that his APARs for the recent years consistently record gradings of "Very Good" and "Outstanding", with integrity assessed as "Nothing Adverse Reported/Noticed" and, in the latest year, as "Beyond Doubt".

10. Notwithstanding this, within a few days of the Division Bench of the Orissa High Court rendering its judgment on 10th May, 2023, the impugned order dated 19th May, 2023 was issued, prematurely retiring the Petitioner from service with immediate effect on payment of three months' pay and allowances in lieu of notice. The Petitioner's representation appeal dated 09th June, 2023 against the said action was thereafter rejected by order dated 20th July, 2023.

Rival submissions

11. Mr. Dhananjaya Mishra, counsel for the Petitioner contends that the impugned action is vitiated on several counts. It is submitted that the Petitioner had already been subjected to review under the applicable regime on attaining the relevant age threshold and had been expressly retained in service in the year 2017. According to the Petitioner, once such a decision of retention had been taken, a second review could have been undertaken only upon the existence of demonstrable changed circumstances in public interest and with the degree of "visible meticulousness" expressly mandated by Clause 7 of the governing circular, neither of which is discernible in the present case. The Petitioner's service record for the immediately preceding years is wholly inconsistent with any conclusion either of doubtful integrity



or of ineffectiveness, inasmuch as he earned consistently high APAR gradings, was promoted as General Manager in 2019, and in the latest APAR his integrity stood expressly recorded as “Beyond Doubt”.

12. Mr. Mishra further contends that the Respondents have premised their decision substantially upon two disciplinary proceedings initiated in the year 2012, both of which culminated in minor penalties, and upon an isolated APAR grading of “Good” for the year 2009. These, are plainly stale circumstances, fully within the knowledge of the employer when he was first retained in service in 2017 and again when he was promoted in 2019. Once the Respondents, with full awareness of such material, chose first to retain and thereafter to promote the Petitioner, the same material could not furnish the principal basis for forming a contemporary opinion in 2023 that the Petitioner had become an officer of doubtful integrity. The Petitioner also disputes the Respondents’ attempt to read the expression “Nothing Adverse Reported/Noticed” in the integrity column as carrying any pejorative or incriminating meaning.

13. *Per contra*, Mr. Manoj, counsel for the Respondents, submits that the order under challenge is one of compulsory retirement in public interest and not by way of punishment, and therefore neither a prior opportunity of hearing nor a speaking order is a condition precedent to the exercise of power under Regulation 22(2A). It is urged that the said provision, read with the governing circular and the DoPT OM, vests in the competent authority a wide discretion to review the entire service record of the officer. Such review may encompass charge-sheets, penalties, APARs, including uncommunicated entries, personal file, general reputation, as well as inputs from controlling officers, for the purpose of forming a *bona fide* and



subjective opinion as to whether the officer's continuance in service is in public interest. According to the Respondents, the Court, in exercise of judicial review, ought not to sit in appeal over such satisfaction so long as the decision is founded on relevant material and is not demonstrably *mala fide* or perverse.

14. Mr. Manoj further contends that the review in the present case must be seen in the backdrop of the events of early 2023, including the CBI trap cases involving certain officers of the Corporation, the adverse institutional repercussions thereof, and the consequential decision at the highest level to undertake review of eligible officers who had crossed the prescribed age threshold. It is their case that the Petitioner's matter was not considered in isolation but as part of a exercise undertaken in exceptional circumstances and in public interest.

15. On merits, it is submitted that the Petitioner's case squarely attracted the criteria of doubtful integrity and ineffectiveness, regard being had to the two charge-sheets of 2012, the penalties imposed thereunder, the below-benchmark APAR grading of 2009, the Respondents' perception that his integrity had not been unequivocally certified as "Beyond Doubt" over a long period, and the inputs received from superior officers and from his personal file regarding his work, conduct and general reputation in the organisation. The Respondents further maintain that the Petitioner's promotion in 2019 was not on pure merit but on seniority, and for that reason the earlier adverse material did not lose relevance; they also assert that the recommendation of the Review Committee, the approval of the competent authority, and the subsequent consideration of the Petitioner's representation were all in accord with the governing circular and the settled



law on compulsory retirement.

Points for determination

16. Having heard counsel for the parties and having perused the record, the following questions arise for consideration:

16.1 Whether, in the facts of the present case, the exercise of power under Regulation 22(2A) conforms to the discipline laid down in the Circular dated 09th July, 2021 and the DoPT Office Memorandum dated 28th August, 2020.

16.2 Whether the material relied upon by the Respondents was sufficient in law to sustain an opinion that the Petitioner's integrity was doubtful or that he had become ineffective in service.

16.3 Whether the impugned action is vitiated on account of arbitrariness, non-application of mind, or colourable exercise of power.

The governing principles

17. The law governing compulsory retirement has already been briefly noted above. This Court does not sit in appeal over the sufficiency of the material on which the satisfaction is founded. Nevertheless, judicial review, though limited, remains available where the order is shown to be *mala fide*, based on no evidence, influenced by collateral or extraneous considerations, or so arbitrary that no reasonable authority properly instructed in law could have arrived at such satisfaction.

18. The Respondents are also right in submitting that compulsory retirement in public interest is not a punishment and does not attract the full panoply of protections applicable to penal action under Article 311 of the Constitution. The governing circular and the DoPT OM further structure the exercise of this power by requiring, *inter alia*, attention to changed



circumstances in the case of a second review, visible meticulousness in such exercise, and due regard to the employee's recent service profile, especially where retirement is sought to be justified on the ground of ineffectiveness. The DoPT OM, relying upon *Union of India v. Col. J.N. Sinha*,³ reiterates that no prior show cause is required and that the power is conditioned primarily by the formation of a *bona fide* opinion in public interest. *State of Gujarat v. Umedbhai M. Patel*⁴ summarises that the order is ordinarily not punitive, the entire service record must be considered, and even uncommunicated entries can be taken into account.

19. But the same authorities, far from conferring immunity, prescribe boundaries. The opinion must rest on material; it cannot be arbitrary or collateral. *Umedbhai M. Patel* also recognises that if an officer is promoted despite adverse entries, that is a factor in his favour, and that compulsory retirement cannot be used as a short cut where another course is more appropriate. The DoPT OM further emphasises, while citing *S. Ramachandra Raju v. State of Orissa*,⁵ that “the entire service record more particular the latest, would form the foundation for the opinion and furnish the base to exercise the power under the relevant rule to compulsorily retire a government officer.”

20. The FCI circular adopts this very jurisprudence and goes a step further by laying down a self-imposed structure that binds the Corporation. Clause 7 permits a second review after earlier retention only on changed circumstances in public interest and expects the authority to demonstrate “visible meticulousness”. Clause 10 distinguishes between doubtful integrity

³ (1970) 2 SCC 458

⁴ (2001) 3 SCC 314



and ineffectiveness and declares that an employee should ordinarily not be retired for ineffectiveness if, during the preceding five years, or where he has been promoted to a higher post during that 5 year period, his service in the highest post, has been found satisfactory. Clause 12 requires the recommendation of the Review Committee to be put up for consideration and approval of the Appointing Authority before premature retirement is ordered.

21. These provisions are not ornamental. Once the employer has chosen to codify the manner in which discretion is to be exercised, adherence to that discipline becomes part of the legal scrutiny of the decision-making process.

Second review and changed circumstances

22. The record unmistakably shows that the Petitioner had already undergone review in 2017 and was then retained in service. This fact assumes significance because Clause 7 of the circular, while permitting a further review, contemplates that such exercise be undertaken on account of changed circumstances in public interest. The clause further expects the Appropriate Authority to demonstrate “visible meticulousness”, particularly since the Government servant had earlier been found effective for retention in service.

23. The Respondents seek to justify the second review by referring to the minutes dated 14th January, 2023 and the backdrop of CBI trap cases involving some officers of the Corporation in Punjab. However, the Petitioner is not shown to have had any connection whatsoever with the said episode. The institutional desire to conduct a cleansing review may perhaps explain why reviews were initiated, but it cannot, without more, supply the

⁵ 1994 Supp (3) SCC 424



changed circumstance personal to the Petitioner so as to justify reversal of an earlier decision of retention in his case. Clause 7 is concerned not with administrative atmosphere in the abstract but with the expediency of reviewing “such case again” on account of changed circumstances.

24. Even more importantly, the requirement of “visible meticulousness” is wholly absent from the record placed before the Court. The impugned order dated 19th May, 2023 is a bare recital of satisfaction in public interest.

The rejection of representation is equally terse. The Respondents cannot be faulted merely on the ground that the order is non-speaking, since the law does not mandate recording of reasons in such cases. Yet where the governing circular adds a requirement of visible meticulousness for a second review, the Court is entitled to look for corresponding rigor in the underlying material. What emerges instead is a perfunctory revival of old matters, already known when the Petitioner was first retained and later promoted, rather than a careful demonstration of why his continuance had now become injurious to public interest.

Integrity: whether the material justifies the conclusion

25. The Respondents’ case on integrity rests substantially on four features: two disciplinary proceedings initiated in 2012 and culminating in minor penalties; one APAR grading of “Good” in 2009; the fact that for several years the integrity column recorded “Nothing Adverse Reported/Noticed” instead of “Beyond Doubt”; and certain inputs gathered from superior officers and the personal file.

26. The first three of these, viewed in context, do not rationally sustain the conclusion reached. The two disciplinary proceedings are of the year 2012 and thus dated. They were undeniably within the Respondents’



knowledge when the Petitioner was first reviewed and retained in 2017, and equally within their knowledge when he was subsequently promoted to the post of General Manager in 2019. While the law does permit the authority to look at the whole record, it does not permit the revival of stale blemishes in disregard of subsequent institutional endorsement by way of retention and promotion, especially where no comparable adverse material from the later period is shown.

27. The 2009 APAR grading of “Good” is even more remote. To place determinative emphasis in 2023 upon a single below-benchmark entry from nearly a decade and a half earlier, while discounting a line of later “Very Good” and “Outstanding” assessments, is to invert the very principle embodied in the DoPT OM and the decisions of the Supreme Court that due weight must be accorded to the later record. The jurisprudence does not permit isolated adverse entries from the distant past to be given undue weight in disregard of the subsequent service record.

28. Equally untenable is the treatment of the integrity assessment “Nothing Adverse Reported/Noticed” as suggestive of doubtful integrity. The material before the Court shows that for the years 2017 to 2021 the Petitioner’s integrity was so recorded, and for 2022 it was expressly recorded as “Beyond Doubt”. In ordinary service parlance, “nothing adverse reported” is a neutral certification, not a disguised censure. To construe the absence of the expression “Beyond Doubt” as evidence of doubtful integrity would be to read suspicion into what is, by definition, neutral. Such an approach cannot be sustained.

29. The Respondents do rely on general reputation inputs and certain observations in the Review Committee material suggesting that the



Petitioner was not satisfactory in work and conduct. Conduct and reputation can, in an appropriate case, form part of the material, as recognised in **S. Ramchandra Raju**. But such material, if it is to outweigh formal service record, must have some convincing nexus with contemporaneous facts. In the present case, the broad, disparaging observations attributed to the Committee stand in clear tension with the Petitioner's APAR record for the same period, which reflects detailed appreciation of his performance, leadership, administrative capacity and effectiveness. Where annual assessments consistently rate an officer as "Very Good" or "Outstanding" and record specific commendation of his work, a subsequent assertion that he "hardly took interest in assigned duties" cannot be accepted at face value in the absence of any concrete and proximate material. No such material is shown.

Ineffectiveness and the five-year rule

30. The finding of ineffectiveness against the Petitioner is equally unsupported. Clause 10(iv) of the circular explicitly states that a corporation employee should ordinarily not be retired on the ground of ineffectiveness if his service during the preceding five years, or his service in the highest post to which he was promoted during that period, has been found satisfactory.

The Petitioner was promoted to the post of General Manager in 2019. Thereafter, his APARs for the relevant period contain gradings of "Very Good" and "Outstanding", accompanied by strongly positive remarks concerning performance and leadership.

31. On the Respondents' own showing, therefore, the Petitioner could not ordinarily have been retired on the ground of ineffectiveness. The circular does preserve an exception where the case is one of doubtful integrity; but as



already noticed, the foundation for invoking that exception in the present matter is unconvincing. It follows that the safeguard embodied in Clause 10(iv) was not given due effect.

32. The Respondents attempt to escape this consequence by asserting that the Petitioner's promotion was based on seniority, not merit, thereby permitting previous APAR entries to be looked at. The Petitioner, however, points out that the post of General Manager is a selection post and, under the Regulations, promotion to such post is on merit with seniority operating only where merit is approximately equal. The DPC minutes show that promotion is based on an assessment of merit against a prescribed benchmark of "Very Good", with reference to the APARs of the preceding five years, and not on seniority alone. Even assuming arguendo that earlier entries could be taken into account, that merely enlarges the field of consideration; it does not permit the authority to disregard the significance of the Petitioner's later record, nor does it dilute the import of Clause 10(iv), which accords due weight to satisfactory service in the higher post while considering retirement on the ground of ineffectiveness.

Appointing authority and application of mind

33. The Petitioner also questioned whether the requirement of approval of the Appointing Authority under Clause 12 was met. Since the impugned order is itself issued under the signature of the Managing Director, who is asserted by the Respondents to be the Appointing Authority for a Category-I officer, the argument of total absence of approval may not be carried to its full amplitude. Yet this does not conclude the matter, because Clause 12 is not concerned with signature alone; it contemplates real consideration and approval of the recommendation of the Review Committee.



34. When the order is examined in the backdrop of the material now disclosed, what is striking is not the lack of form but the lack of demonstrated application of mind to the central exculpatory features of the Petitioner's case: earlier retention in 2017, promotion in 2019, APARs in the later years, and the latest integrity endorsement of "Beyond Doubt". These aspects lie at the heart of the inquiry mandated by the circular and the jurisprudence. Their eclipse from the decisional process renders the professed satisfaction legally vulnerable.

Colourable exercise and timing

35. A finding of *mala fides* is not to be lightly recorded, and the Court must be slow to attribute oblique motive to institutional action in the absence of cogent material. The Petitioner's case, however, is that the impugned action cannot be viewed in isolation, but must be seen in the backdrop of his prolonged and repeated litigation to secure appointment, promotion and seniority benefits.

36. There is no direct evidence before this Court of personal animus in the narrow sense. At the same time, the sequence of events is not without significance. The Petitioner had, over the years, successfully pursued claims relating to appointment and promotion, culminating in the recognition of his entitlement to notional promotion with attendant seniority consequences. The decision to compulsorily retire him was taken thereafter, and rests substantially on material which was long available on record. This lends weight to the submission that the power was invoked in a manner not entirely divorced from the administrative consequences flowing from the Petitioner's service claims.

37. Even if the Court were to stop short of a definitive finding of malice



in fact, the action is plainly vitiated as a colourable exercise of power in law. A power intended to weed out deadwood or officers of genuinely doubtful integrity cannot be sustained when deployed against an officer whose recent service record is demonstrably strong and when the justification rests essentially on stale material repurposed at a moment of immediate administrative inconvenience.

Conclusion

38. On an overall conspectus, this Court is satisfied that the impugned order dated 19th May, 2023 and the order dated 20th July, 2023 rejecting the Petitioner's representation cannot be sustained. The Respondents were entitled to review the Petitioner's case under Regulation 22(2A), but that power had to be exercised consistently with the governing circular, the DoPT OM, and the principles laid down by the Supreme Court. The decision-making process in the present case falls short on each of the critical axes: the second review does not disclose the changed circumstances and visible meticulousness required by Clause 7; the material relied upon does not reasonably justify an opinion of doubtful integrity; the safeguard against retirement on the ground of ineffectiveness contained in Clause 10(iv) was ignored in substance; and the action bears the imprint of arbitrariness and collateral purpose.

39. The Respondents repeatedly emphasised that compulsory retirement is not a punishment. That proposition is unexceptionable. Yet precisely because the order is said to be non-punitive, it must remain anchored to the doctrine of public interest and to a fair appraisal of the service record as a whole, particularly the later years. This is plainly absent.

Relief



40. Accordingly, the writ petition is allowed. The order dated 19th May, 2023 prematurely retiring the Petitioner from service and the order dated 20th July, 2023 rejecting his representation are hereby set aside. The Respondents are directed to treat the Petitioner as having continued in service for all purposes from the date of the impugned retirement order till the date on which he would have otherwise superannuated, subject to any lawful adjustment required on account of amounts already paid to him pursuant to the premature retirement. The intervening period shall be treated as period spent on duty for all service and retiral purposes, in terms of Clause 14 of the governing circular and the corresponding Regulations.

41. The monetary and service consequences flowing from this judgment shall be worked out and released within twelve weeks from today.

SANJEEV NARULA, J

MAY 5, 2026/hc