



CWP-13664-2000 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-13664-2000 (O&M)

Date of decision: 20.06.2025

Mehar Singh Rattu

...Petitioner

V/s

The Registrar of Punjab and Haryana High Court,
Chandigarh and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL****Present:** Mr. D.S. Patwalia, Senior Advocate with
Mr. Ayush Gupta, Advocate for the petitioner.Mr. Karminder Singh, Advocate with
Mr. Prabhsher Singh Walia, Advocate
for the respondents No.1 and 2.

Mr. Saurav Khurana, Addl. A.G. Punjab for respondent No.3.

SUMEET GOEL, JUDGE

1. The petitioner has invoked the writ jurisdiction of this Court under Articles 226/227 of the Constitution of India seeking, in essence, the quashing of recommendation dated 21.09.2000 of the Full Court of respondent No.2, order dated 25.09.2000 passed by respondent No.2 withdrawing Judicial work from petitioner and consequential order dated 10.10.2000 (P-30-A) issued by Respondent No.3 (State of Punjab) whereby the petitioner was prematurely retired from service.

2. Shorn of non-essential details, the factual matrix of the *lis* in hand is adumbrated, thus:

(i) The petitioner, upon his induction into the Punjab Superior Judicial Services in the year 1990, served as an Additional District and Sessions Judge in the State of Punjab on multiple postings across different Session Divisions.



(ii) The concerned Administrative Judge, during the course of inspection of Sessions Division at Fatehgarh Sahib (Punjab), rendered adverse observations relating to petitioner's judicial efficacy, professional competence and integrity which were subsequently added into the inspection report. The said unfavorable remarks were communicated to the petitioner thereafter. The petitioner is stated to have made representation against the same which was declined by the Administrative Judge and decision thereof was conveyed to the petitioner vide communication dated 24.07.1997.

(iii) Subsequent to the above-said rejection of his representation, the petitioner submitted a fresh representation requesting the Full Court of respondent No.2 to review and reconsider the said adverse inspection remarks. The petitioner, vide communication dated 05.08.1997, was apprised of a proposal to initiate disciplinary proceedings against him in view of recommendations of the Full Court of respondent No.2 in its meeting held on 14.05.1997. Pursuant thereto, a charge-sheet was served upon the petitioner but the said charges came to be dropped later on by the Full Court of respondent No.2 in its meeting held on 12.09.1997.

(iv) Vide communication dated 17.09.1997, the petitioner was intimated regarding recording of an adverse entry, as regards his integrity, for the year 1996-97. The petitioner, relying upon his above-referred exoneration in the disciplinary proceedings, sought for expunction of adverse remarks. However, the same was declined vide communication dated 13.02.1998. Further representations made by the petitioner for expunging the adverse remarks also came to be rejected.

(v) In the inspection report for the year 1997-98, the adverse remarks were again recorded against the petitioner's judicial functioning. However, upon consideration of representation made by the petitioner



regarding the same, the said remarks were subsequently classified as “Advisory”. The petitioner’s ACR (Annual Confidential Report) for the year 1997-98 came to be recorded as “Average”.

(vi) Another representation by the petitioner, routed through the Law Ministry, was rejected vide order dated 01.10.1999 passed by respondent No.2 after deliberation thereupon. The High Court recommended for the issuance of a charge-sheet against the petitioner for imposition of a major penalty but the same was later dropped by the Full Court of respondent No.2 by issuance of recordable warning to the petitioner thereby advising him greater caution in future vide communication dated 06.04.2000.

(vii) Upon the matter, pertaining to retention of the petitioner in service beyond the age of 55 years being placed before the Full Court of respondent No.2, vide order dated 21.09.2000, the premature retirement of the petitioner in the interest of justice was recommended for. Vide communication dated 25.09.2000 passed by respondent No.2, judicial work of the petitioner was directed to be withdrawn. The same came to be acted upon vide order dated 10.10.2000 by respondent No.3 whereby the order of compulsory retirement was passed against the petitioner.

It is in this factual backdrop that the present writ petition came up for adjudication at the hands of this Court.

3. Learned counsel for the petitioner; led by Shri D.S. Patwalia, Senior Advocate; has contended that the impugned order whereby the petitioner was directed to be compulsorily retired is illegal and unsustainable since the petitioner stood exonerated of the allegations made against him regarding his judicial functioning. Learned senior counsel has iterated that the petitioner has been prematurely retired as a punitive measure basis



whereof is not made out from the ACRs recorded *qua* the petitioner from time to time. Learned counsel has further urged that, before passing of an order of premature retirement, the service record of the petitioner should have been perused and considered in entirety. On the basis of these submission, the grant of writ petition is entreated for.

4. Learned counsel appearing for respondents No.1 and 2, while making submissions in tandem with the written reply, submitted by the said respondents, has argued that the order of premature retirement has been passed against the petitioner on account of the petitioner's services not being found satisfactory so as to enable him to continue in service beyond the age of 55 years. Learned counsel has iterated that the discretion to evaluate the professional conduct, efficiency and integrity of a judicial officer, lies entirely with the respondent Nos.1 and 2 and the same can be assailed only on account of such an order being mala fide. Learned counsel has argued that there is no substantial pleading in the case of the petitioner so as to reflect mala fide at the end of respondent Nos.1 and 2. Learned counsel has further argued that the dropping of the charges against the petitioner has no nexus or consequential bearing upon the decision for premature retirement of the petitioner.

4.1. Learned counsel on behalf of respondent No.3 has urged that respondent No.3 has acted upon the recommendation(s) made by Full Court of respondent No.2.

5. We have heard learned counsel for the rival parties and have perused the record.

6. The prime issue that arises for consideration in the writ petition in hand is as to whether the order of compulsory retirement passed against the petitioner deserves to be quashed.



7. Before proceeding to delve further, it would be apposite to refer herein to a Three Judge Bench judgment of the Hon'ble Supreme Court in ***Baikuntha Nath Das vs. Chief District Medical Officer, Baripada, 1992 Supreme Court 1020***, relevant whereof reads as under:

“32. 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 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 interfere.”*

Further; following the dicta in ***Baikuntha Nath Das*** (supra), the Hon'ble Supreme Court in the case of ***Arun Kumar Gupta vs. State of Jharkhand & Anr., 2020 13 SCC***, has held thus:

“16. The law on the subject of compulsory retirement, especially in the case of judicial officers may be summarised as follows:



- (i) *An order directing compulsory retirement of a judicial officer is not punitive in nature;*
- (ii) *An order directing compulsory retirement of a judicial officer has no civil consequences;*
- (iii) *While considering the case of a judicial officer for compulsory retirement the entire record of the judicial officer should be taken into consideration, though the latter and more contemporaneous record must be given more weightage;*
- (iv) *Subsequent promotions do not mean that earlier adverse record cannot be looked into while deciding whether a judicial officer should be compulsorily retired;*
- (v) *The ‘washed off’ theory does not apply in case of judicial officers specially in respect of adverse entries relating to integrity;*
- (vi) *The courts should exercise their power of judicial review with great circumspection and restraint keeping in view the fact that compulsory retirement of a judicial officer is normally directed on the recommendation of a high powered committee(s) of the High Court.”*

The *ratio decidendi* of the above case-law reflects that whether the conduct of an employee is such so as to justify the conclusion of compulsory retirement is primarily for the concerned departmental authority(s) to decide. The nature of the delinquency and whether it is of such a degree so as to require compulsory retirement of the employee is primarily to be looked into by the concerned competent authority. The writ Court ought not to ordinarily interfere with the exercise of this power if arrived at bona fide and on basis of material available on record. Therefore, the judicial review of an order imposing premature/compulsory retirement is permissible only if such order is arbitrary or mala fide or it is based on no material whatsoever.

8. Reverting to the factual matrix of the case in hand, it would be germane to refer herein to the precis of the Annual Confidential Remarks made by different concerned Administrative Judges on the work and conduct of the petitioner herein, relevant whereof reads as under:-



<i>Year</i>	<i>Remarks</i>	<i>Adverse/Advisory remarks, if any</i>	
1990-1991	B-Satisfactory		
1991-1992	B-Plus (Good)		
1992-1993	B Plus (good)	Are his judgments and orders well written and clearly expressed? (Category in which the judgments are to be placed, viz. A-Plus Outstanding, A-Very Good, B Plus (Good), B-Average/Satisfactory, C-Below Average)	There is <u>scope for further improvement</u> (Good)
		Is he an efficient judicial officer?	Yes. There is scope for further improvement.
1993-1994	B Plus (Good)		
1994-1995	B Plus (Good)		
1995-1996	B Plus (Good)	Are his judgments and orders well written and clearly expressed? (Category in which the judgments are to be placed, viz. A-Plus Outstanding, A-Very Good, B Plus (Good), B-Average/Satisfactory, C-Below Average)	Average. <u>Needs improvement</u> (By way of advice)
1996-97	<u>C-Integrity</u> <u>Doubtful</u>	Knowledge of law and procedure	<u>Poor</u>
		Is he industrious and prompt in the disposal of cases and has he coped effectually with heavy work?	<u>Average</u>
		Are his judgments and orders well written and clearly expressed? (Category in which the judgments are to be placed, viz. A-Plus Outstanding, A-Very Good, B Plus (Good), B-Average/Satisfactory, C-Below Average)	<u>Poor</u> <u>Below Average</u>
		Is his supervision of the distribution of business amongst and his control on the subordinate Courts, good?	<u>Average</u>
		Is he an efficient judicial officer?	<u>No</u>
		Has he maintained judicial reputation for honesty and impartiality?	Has a <u>stinking reputation</u> regarding his honesty (Integrity doubtful)
		Net result	<u>Below Average</u>
1997-1998	Average	Is he industrious and prompt in the disposal of cases and	<u>No.</u> (Note: vide



		<i>has he coped effectually with heavy work?</i>	<i>orders dated 24.10.98 of Hon'ble Administrative Judge, the above remarks was treated as advisory.)</i>
		<i>Are his judgments and orders well written and clearly expressed? (Category in which the judgments are to be placed, viz. A-Plus Outstanding, A-Very Good, B Plus (Good), B-Average/Satisfactory, C-Below Average)</i>	<i>I have gone through minutely his judgments delivered on civil and criminal side. They are rated satisfactory B (Satisfactory)</i>
		<i>Is he an efficient judicial officer?</i>	<i>Satisfactory</i>
		<i>Has he maintained judicial reputation for honesty and impartiality?</i>	<i>There was no general complaint about his reputation for honesty and impartiality. However, his judgments were found satisfactory. Keeping in view the recommendation s of the Sub Committee and especially the report of 1996-97, I am recommending that this officer may be kept <u>under surveillance</u> for another period of six months.</i>
<i>1998-1999</i>	<i>B Plus (Good)</i>	<i>Are his judgments and orders well written and clearly expressed?</i>	<i>+B (Good). <u>Advised to improve further.</u> (Advisory)</i>
		<i>Is he an efficient Judicial Officer?</i>	<i>Good (+B) <u>Required to improve further</u></i>
		<i>Net result :</i>	<i><u>Required to improve efficiency and the quality of judgments</u> +B (Good)</i>
<i>1999-2000</i>	<i>B Plus (Good)</i>		



A granular examination of the order dated 10.10.2000 reveals that the petitioner has been directed to undergo compulsory retirement in '*Public Interest*'. The phrase '*Public Interest*' is inherently broad and falls within the exclusive domain of the competent authority, whose subjective satisfaction in this regard is not ordinarily subject to judicial review. The scope of judicial intervention in such matters is inherently limited, as writ Court is not expected to substitute its own opinion for that of the authority vested with the discretion to assess whether an employee's continuation in service is conducive to the great public cause. Furthermore, a bare perusal of petitioner's ACRs makes it abundantly clear that it is not a case where the service record has remained unblemished throughout. The service-record of the petitioner, thus, reflects that there has been multiple adverse remarks against him during the course of his service tenure. The said remarks are not only spread over different years of his service tenure but also have been recorded by different Administrative Judges. The mere factum, of the petitioner having been charge-sheeted and the same having dropped but with a recordable warning to the petitioner to remain careful in future, does not *ipso facto* absolve the petitioner from delinquency thereof. In other words, the adverse remarks or advisory or recordable warning made against the petitioner cannot wash-off such lapses so as to render them *otiose* for consideration of the petitioner for retention in service beyond the age of 55 years. The presence of adverse remarks in ACRs negates any presumption that the decision to compulsorily retire the petitioner was exercised in an arbitrary, unreasonable or mala fide manner. From the material brought forth before this Court, it cannot be said that recommendation(s) made by the Full Court and resultant order(s) passed in pursuance thereof can be said to be arbitrary or laced with any mala fide. On the contrary, it emerges that the



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Full Court having duly considered the petitioner's service record in its entirety, has exercised its discretion within the bounds of law. *Ergo*, the writ petition in hand deserves rejection.

Decision

9. In view of the preceding ratiocination, the writ petition in hand is dismissed. Pending application(s), if any, shall also stands disposed of. No order as to costs.

(SUMEET GOEL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

June 20, 2025
Ajay/Jatin

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No