



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

1.

**Ravinder Kumar Condal**

**CWP-16022-2021(O&M)**

**... Petitioner**

**Vs**

**Punjab and Haryana High Court, Chandigarh and another**

**... Respondents**

2.

**Asha Condal**

**CWP-16020-2021 (O&M)**

**... Petitioner**

**Vs**

**Punjab and Haryana High Court, Chandigarh and another**

**... Respondents**

**Reserved on : 27.08.2025**

**Pronounced on : 21.11.2025**

**Judgment uploaded on : 23.11.2025**

*Whether only the operative part of the judgment is pronounced  
or whether the full judgment is pronounced : Full Judgment*

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA  
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. R.K. Malik, Sr. Advocate with  
Mr. Varun Veer Chauhan, Advocate for the petitioner(s).

Mr. Gaurav Chopra, Sr. Advocate with  
Mr. Ranjeet Singh Kalra, Advocate  
Ms. Mona Yadav, Advocate, for respondent No.1.

Mr. Maninder Singh, Addl. A.G., Punjab

\* \* \* \*

**ROHIT KAPOOR, J.**

The petitioners in the above-mentioned petitions, are husband and wife, who were working as Civil Judge Senior Division and Additional District Judge, respectively, in the state of Punjab, and have invoked the



writ jurisdiction of this court *inter alia* seeking quashing of the orders passed by the state government, retiring them prematurely, on the recommendations of the High Court. As common questions of law and facts are involved, with the consent of the parties, both the petitions are being decided together by way of this common judgment and order.

**I. Challenge Raised:**

1.1. The petitioner-Ravinder Kumar Condal, in CWP No. 16022 of 2021, has prayed for quashing of the order dated 07.09.2015 communicated vide endorsement dated 15.09.2015 (Annexure P-2), whereby he was ordered to be prematurely retired w.e.f 05.10.2015 and for setting aside the order dated 03.08.2021 (Annexure P-4), rejecting his representation/review petition, and directions are sought to reinstate the petitioner, with all consequential benefits along with interest at the market rate. Further prayer is made for quashing the order dated 07/12.02.2018 (Annexure P-9), whereby suspension period of the petitioner from 23.07.2012 to 04.10.2015, was treated as leave of the kind due and for setting aside the orders dated 13.06.2018, 04.04.2019, 27.08.2019 (Annexures P-10, P-11 & P-12), respectively, wherein an amount of Rs. 23,86,664/- was ordered to be recovered from the subsistence allowance already paid to him.

1.2. CWP No. 16020 of 2021 is directed against the order dated 30.11.2017 (Annexure P-2), whereby petitioner-Asha Condal was ordered to be prematurely retired w.e.f. 29.11.2017 and for quashing of orders dated 12.07.2021 and 28.08.2019 (Annexure P-4), rejecting the representation / review petition filed by her. Further prayer for reinstatement with all consequential benefits and interest at the market rate, has been made.



**II. Factual Matrix:**

2. The petitioner-Ravinder Kumar Condal was appointed as a Civil Judge Junior Division on 06.02.1996 and was promoted as Additional Civil Judge Senior Division on 05.04.2004. He was further promoted as Chief Judicial Magistrate-cum-Civil Judge Senior Division on 29.07.2009. The Administrative Committee of this Court in its meeting held on 13.07.2015, after taking into consideration the overall service record, work and conduct of the petitioner, resolved that it is in public interest that the officer be not allowed to continue in service beyond the age of 50. The Full Court in its meeting dated 10.08.2015, after considering the recommendations of the Administrative Committee and after re-appraising the entire service record of the petitioner, decided to retire him on attaining the age of 50 years, in public interest. On the recommendations of the High Court, the Governor of Punjab, in exercise of powers conferred under Rule 3 of the Punjab Civil Services (Premature Retirement) Rules, 1975, (*hereinafter referred to as the '1975 Rules'*), decided to retire the petitioner prematurely vide order dated 07.09.2015, w.e.f. 05.10.2015, i.e. the date the petitioner would attain the age of 50 years. The petitioner filed representations/review petition against the order dated 07.09.2015, which were also rejected.

2.1. In the case of the petitioner in CWP No.16020 of 2021, i.e. Asha Condal, the chronology of facts is that she was appointed as Civil Judge (Junior Division) on 27.03.1996 and promoted as Additional Civil Judge (Senior Division) on 31.01.2001. Thereafter, she came to be promoted as Additional District Judge on 28.02.2008. The Administrative



Committee, after taking into consideration her overall service record, work and conduct, vide its decision taken in pursuance to the meeting held on 02.11.2017, recommended that the said petitioner be not allowed to continue in service beyond the age of 50 years. Thereafter, the matter was placed before the Full Court in its meeting held on 08.11.2017 and it was resolved that the recommendations of the administrative committee be accepted and keeping in view the entire service record of the officer, she be not allowed to continue in service beyond the age of 50 years, in public interest.

2.2. On receipt of the recommendations of this Court, vide letter dated 10.11.2017, the Governor of Punjab decided to prematurely retire the petitioner w.e.f. 29.11.2017, vide order dated 30.11.2017. The representation-review petition filed by the petitioner on 15.08.2018 was rejected vide order dated 28.08.2019.

2.3. Tabulation of the ACRs of the petitioners, as placed on record, is extracted as under:

**Ravinder Condal**

Year	Remarks by the High Court	Adverse/advisory remarks, if any.		
1996-97	B-Satisfactory			
1997-98	B-Average			
1998-99	B Plus (Good)			
1999-2000	B Plus (Good)			
2000-2001	B Plus (Good)			
2001-2002	B Plus (Good)			
2002-2003	B Plus (Good)			
2003-2004	B Plus (Good)			
2004-2005	A-Very Good			
2005-2006	B Plus (Good)			
2006-2007	B Plus (Good)			
2007-2008	B Plus (Good)			
2008-2009	A-Very Good			



2009-2010	B Plus (Good) (Provisional) (subject to the outcome of the complaint dated nil (received on 9.3.2010) made by Sh. Rajinder Kumar s/o Sohan Lal, (ii) complaint dated 2.3.2010 made by Ms. Akbari d/o Mangat Ram.	Part III	Remarks of the Administrative Judge	The officer has high understanding of law and the administrative matters. There was a whisper amongst the members of the Bar about the officer but no complaint against him stood substantiated.
2010-2011	B Plus (Good) (Being for a longer period)	The following remarks were recorded on the work and conduct of the officer for the period from 01.11.2010 to 31.03.2011:-		
		8.	General assessment - regarding strength and shortcomings:	Does not maintain punctuality in court hours.
		Part III	Remarks of the Administrative Judge	There were whispers in the bar as also in official circles about reputation of the Officer since no specific complaints, written or otherwise, were brought to my notice, no action was taken. The officer needs to be careful on this front. (Advisory)
2011-2012	C-Below Average	1(a)	Conduct of business in court and office	Below Average. He is a work shirker
		2	Quantity of work-	He is in the habit of claiming false units.
		7.	Integrity	Needs to be kept under watch.
		8.	General assessment – regarding strength and shortcomings	As against his sermonizing his performance is very poor.
2012-2013	No Remarks (being			



	suspension period)			
2013-2014	No Remarks (being suspension period)			
2014-2015	No Remarks (being suspension period)			

**Asha Condal**

Year	Remarks by the High Court	Adverse/advisory remarks, if any.		
1996-1997	B-Satisfactory	2	Is she industrious and prompt in the disposal of cases and has she coped effectually with heavy work?	Must put in more work. Low disposal. However, her explanation was satisfactory.
1997-1998	B Plus (Good)			
1998-1999	B Plus (Good)			
1999-2000	B Plus (Good)	5	Is she an efficient Judicial Officer?	Satisfactory. To be advised to improve disposal of work.
		10	Net Result	B+(Good). She is however advised to be more painstaking and hard working in the disposal of judicial work but otherwise a good officer.
2000-2001	B Plus (Good)			
2001-2002	B Plus (Good)			
2002-2003	B Plus (Good)			
2003-2004	B Plus (Good)			
2004-2005	B Plus (Good)			
2005-2006	B Plus (Good)			
2006-2007	B Plus (Good)			
2007-2008	B Plus (Good)			
2008-2009	A- Very Good			
2009-2010	B Plus (Good) (Provisional)			



	(subject to the outcome of complaint dated 2.3.2010 made by Akbari d/o Mangat)			
2010-2011	Remarks for the period from 02.04.2010 to 29.10.2010 by Hon'ble Administrative Judge of Amritsar Sessions Division - -- B Plus (Good)			
	Remarks for the period from 01.11.2010 to 31.03.2011 by Hon'ble Administrative Judge of Amritsar Sessions Division - -- B (Satisfactory) (Yet to be approved by Full Court after recording by Hon'ble Administrative Committee).	5	State of health	Needs to take care
		8	General Assessment regarding strength and shortcoming	Not very punctual in Court. Should concentrate more on work.
		Part III	Remarks of the Administrative Judge	Spoken reputation of the Officer is not good but there being no specific written complaint, cognizance is not taken. Needs to improve on this aspect.(Advisory)
2011-2012	Remarks recorded by Hon'ble Administrative Judge of Amritsar Sessions Division - B Average. (Yet to be approved by Full Court after recording by Hon'ble Administrative Committee).	1(b)	Quality of Judgment	Average
		2	Quantity of Work	Satisfactory. Needs to work hard.
		7	Integrity	Her integrity be kept under watch.
		8	General Assessment-regarding strength and shortcomings.	Always eager to go on leave.
2012-2013	Remarks for the period from 1.4.2012 to 22.08.2012 were not recorded by Hon'ble Administrative Judge of Amritsar			



	Sessions Division.  The remarks for the remaining period i.e. from 23.08.2012 to 31.03.2013 were not recorded as the officer remained under suspension w.e.f. 23.08.2012.			
2013-2014 to 2017-2018	Remarks were not recorded as the officer remained under suspension w.e.f. 23.08.2012 to 28.11.2017.			

2.4. It transpires that before the order retiring the petitioners prematurely were passed, certain complaints were received against the petitioner in CWP No. 16022 of 2021, resulting in initiation of disciplinary proceedings and he was suspended on 23.07.2012. In the matter pertaining to the complaint dated 14.11.2011, containing allegations regarding fixing cases on Sundays, minor penalty of one annual grade increment without cumulative effect was imposed vide Full Court decision dated 23.07.2012. In the other complaints, pertaining to corruption/illegal gratification, the said petitioner was indicted in the enquiry reports, yet, before the final decision could be taken, he already stood prematurely retired and therefore, it was decided that the matters be kept in abeyance and shall be revived in future as and when considered necessary or required.

2.5. Show-cause notice was issued to the said petitioner, to the effect as to why the suspension period w.e.f. 23.07.2012 to 04.10.2015 be not treated as leave of kind due, to which the petitioner submitted replies



dated 26.09.2016 and 06.07.2017. The vigilance/ disciplinary committee in its meeting held on 10.01.2018 resolved that after considering the reply and keeping in view the fact that the officer was not exonerated of the charges in the regular departmental enquiries conducted against him, it is recommended that the period of suspension be treated as leave of the kind due. The recommendations of the committee were accepted by the Full Court. As a consequence thereof, impugned letters dated 13.06.2018, 04.04.2019 and 29.08.2019 were issued to recover the alleged excess amount of Rs. 23,85,664/-.

2.6. Two more complaints were received, against both the petitioners, from Ms. Akbari d/o Mangat Ram on 02.03.2010 and from one Hari Prasad alleging acquisition of immovable property by ill gotten means and raising lavish construction beyond known source of income. In pursuance thereto, disciplinary proceedings were initiated against both the petitioners. The petitioner-Asha Condal was suspended on 23.08.2012 and the Enquiry Officer concluded the enquiry on 13.07.2015, wherein charge No.1 qua the purchase of plot on a higher rate than what was reflected in the sale deed, could not be proved, however, the second charge as regards spending higher amount on the construction of the house than the disclosed amount, stood proved. Show cause notice was issued on 09.12.2015 and reply thereto was submitted on 26.06.2017.

2.7. In pursuance to the disciplinary proceedings the Vigilance and the Disciplinary Committee vide its meeting held on 17.07.2017 resolved that the petitioners be called for personal hearing, which was afforded and it was ultimately held that the reply submitted by them was not found to be



satisfactory and no ground was made out to differ with the enquiry report dated 13.07.2015 and the same was accepted. However, since the petitioners had already been retired prematurely, therefore it was observed that no orders were required to be passed at this stage. The matter was thereafter placed before the Full Court meeting held on 31.08.2019, wherein it was decided to accept the report of the Vigilance and Disciplinary Committee and since both the officers had been retired prematurely, the matter with regard to initiation of action was ordered to be kept in abeyance. However, it was decided that the same could be revived, if required in future.

### **III. Contentions**

3. Mr. R. K. Malik, Senior Advocate, appearing on behalf of the petitioners has argued that perusal of the confidential reports of the petitioners would show that they had an unblemished career and merely one report, which is average, cannot be made the basis of retiring the petitioners prematurely. It is submitted that after perusing the confidential reports, no reasonable person can reach the conclusion that the petitioners were not fit to be retained in the service. Reliance in this regard is placed upon a decision passed by learned Single Judge of this Court in the case of **Joginder Singh vs. Haryana State Electricity Board, Chandigarh, 2004 (3) SCT 314**, to contend that a single below average report without any remarks regarding integrity cannot be the basis of retiring the petitioners prematurely and thus the impugned orders would therefore be required to be held as an outcome of arbitrary exercise of powers.



3.1 Learned Senior Counsel appearing on behalf of the petitioners has invited our attention to the guidelines for premature retirement of judicial officers, dated 20.09.1979 (Annexure P-5), which *inter-alia* provide that the suitability for retention in service at the time of review is to be determined in the light of the entire service record, with particular reference to the record pertaining to the preceding five years and an employee with a good record of service and whose latest grading is B+ (Good) or above should be allowed to continue in service. Reference is made to the decision taken in the meeting of the Full Court dated 14.03.2011, where a clarification was issued that not earning a B+(Good) grading in the latest ACR, will not disentitle an officer to be retained in service, provided the ACRs of the last five years indicate consistent good performance.

3.2 Learned Senior counsel has also argued that the action of the respondents relying upon disciplinary proceedings, which are pending and are not finally concluded, is patently illegal and in the teeth of the law settled by the Hon'ble Supreme Court of India in the case titled as **State of Gujarat vs. Umedbhai M. Patel, 2001(2) SCT 339.**

3.3 It is further contended that neither adverse orders were passed against the petitioners nor any misconduct stood proved against them and, therefore the action of the respondents in retiring the petitioners prematurely on the basis of the alleged complaints, was wholly unwarranted.

3.4 Mr. Malik has referred to Rule 8 of the Punjab Superior Judicial Service Rules 2007 (herein after referred to as 'the 2007 Rules'), wherein clause (ii) stipulates that annual confidential reports of the preceding five years of the officer concerned shall be taken into



consideration for the purpose of promotion. Emphasis is laid upon the proviso, which puts an embargo that any officer having grading as 'C' (integrity doubtful) in any year shall not be eligible to be considered for promotion and the argument advanced is that in the case of the petitioners, there was no grading, therefore, they could not have been retired prematurely.

3.5 A feeble attempt is made to raise an element of bias, by referring to the allegations levelled in the representation/review filed by the petitioners, by arguing that the same have not been accorded due consideration and a speaking order has not been passed while rejecting the review petition, in violation of the principles of natural justice.

4.7 *Per contra*, learned senior counsel appearing on behalf of the High Court has at the very outset, contended that perusal of Chapter VI of the Constitution of India makes it evident, that the control over the subordinate courts vests with the High Court and the Governor does not act independently, but on the basis of the recommendations of the High Court. It is argued that once the recommendations, i.e. the decision-making process and the decision of the High Court has not been assailed, no relief in the present petitions can be granted. Maintainability of the petitions on the ground of laches, is also questioned.

4.8 It is contended that as per the 1975 Rules, the appropriate authority has the absolute right to retire an employee on the date, on which he/she completes requisite number years of qualifying service or attains the age of 50 years. In the case of the petitioners, their complete service record has been taken into consideration, and it is only thereafter a conscious



decision has been taken to retire them prematurely upon attaining the age of 50 years, strictly in public interest.

4.9 It is further argued that perusal of the ACRs would make it evident that various adverse remarks/comments were recorded against the petitioners during their service career, especially in the later ACRs. It is only in this backdrop, keeping in view the larger public interest, the decision to pre-maturely retire the petitioner has been taken. Reference has been made to the decisions of the Hon'ble Supreme Court of India in *Pyare Mohan Lal vs. State of Jharkhand, (2010) 10 SCC 693*, *Ram Murti Yadav vs. State of Uttar Pradesh and Anr., 2020(1) SCT 299*, and *Central Industry Security Force Vs. HC (GD) Om Prakash, (2022) 5 SCC 100* to canvass that even a single adverse entry regarding the integrity of an officer in remote past is sufficient to award compulsory retirement. The case of a judicial officer is required to be examined, treating him to be differently from other wings of the society as he serving the State in different capacity. An order of compulsory retirement is not a punishment and does not imply stigma. The standard or yardstick for judging conduct of judicial officer necessarily has to be strict in order to maintain complete faith in the minds of the ordinary litigant. It was further held that while dealing with the case of compulsorily retirement, the scope of judicial review is extremely narrow and restricted. The only ground of challenge can be malafide or overlooking of relevant material. The Constitutional Courts, while exercising their powers of judicial review, cannot examine the matter as an Appellate Authority and the principles of natural justice has no application.



The entire service record has to be taken into consideration though the recent reports would carry their own weight.

4.10 It is lastly urged that the case of the petitioners has been examined by the Full Court after taking into consideration the complete record and the decision to retire them prematurely is neither stigmatic nor punitive and thus cannot be assailed.

**IV. Analysis and Conclusion:**

5. We have heard the learned counsel for the parties and have gone through the material available on record with their able assistance.

5.1. Although, various submissions have been advanced, which we shall proceed to deal with, the primary questions that fall for our consideration are as follows:

- (i) Whether the orders of premature retirement of the petitioners warrant interference on any of the accepted legal principles?
- (ii) Whether the period of suspension could have been treated as leave of kind due?

5.2. The law relating to compulsory/premature retirement has been summarized by the Hon'ble Supreme Court of India in the case of **State of Gujarat v. Umedbhai M. Patel**, (*supra*) after taking note of the view taken in several other judgements. The relevant observations made in the said judgment, are reproduced as under:

*“5. The Court, in a number of cases, had occasion to consider the law relating to compulsory retirement and has laid down various principles. In State of Orissa & Ors.v. Ram Chandra Das, (1996)5 SCC 331 : 1996(4)*



*SCT 288 (SC), this Court held in paragraph 3 of the judgment as follows :*

*"It is needless to reiterate that the settled legal position is that the Government is empowered and would be entitled to compulsorily retire a Government servant in public interest with a view to improve efficiency of the administration or to weed out the people of doubtful integrity or are corrupt but sufficient evidence was not available to take disciplinary action in accordance with the rules so as to inculcate a sense of discipline in the service. But the Government before taking such decision to retire a Government employee compulsorily from service, has to consider the entire record of the Government servant including the latest reports."*

*(Emphasis supplied)*

6. *In State of Gujarat & Anr. v. Suryakant Chunilal Shah, (1999)1 SCC 529 : 1999(1) SCT208 (SC), the State Government challenged the judgment of the Division Bench of the Gujarat High Court by which the order passed by the Single Judge was set aside. The Division Bench held that the order of compulsory retirement was bad and thereupon the State of Gujarat filed an appeal. In that case, two criminal complaints had been filed against the respondent-Asstt. Food Controller, one alleging that he had illegally issued cement permits to some bogus institutions; and second that he had fabricated some rubber stamps of the Government for the purpose of issuing illegal permits. But, there were no adverse entries in his confidential records and his integrity was not doubted at any stage. However, the authorities thought that the investigation and subsequent prosecution of the respondent would take long time and it would be better to dispense with his*



*services by compulsorily retiring him. The review committee, therefore, recommended his compulsory retirement. This Court, in paragraph 28 of the judgment, held as under :*

*"There being no material before the Review Committee, inasmuch as there were no adverse remarks in the character roll entries, the integrity was not doubted at any time, the character roll entries subsequent to the respondent's promotion to the post of Assistant Food Controller (Class II) were not available, it could not come to the conclusion that the respondent was a man of doubtful integrity nor could have anyone else come to the conclusion that the respondent was a fit person to be retired compulsorily from service. The order, in the circumstances of the case, was punitive having been passed for the collateral purpose of his immediate removal rather than in public interest."*

7. *In Baikuntha Nath Das & Anr. v. Chief District Medical Officer, Baripada & Anr.,(1992)2 SCC 299 : 1992(2) SCT 92 (SC), following the decision in Union of India v. J.N.Sinha, (1970)2 SCC 458, this Court held thus:*

*"(i) An order of compulsory retirement is not a punishment. It implies no stigma or 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. The circumstance by itself cannot be a basis for interference."*



8. *In Allahabad Bank Officers' Association & Anr. v. Allahabad Bank & Ors., (1996) 4 SCC 504 : 1996 (3) SCT 263 (SC), this Court, in paragraph 5 of the judgment on page 508, held as under :*

*"The power to compulsorily retire a Government servant is one of the facets of the doctrine of pleasure incorporated in Article 310 of the Constitution. The object of compulsory retirement is to weed out the dead wood in order to maintain efficiency and initiative in the service and also to dispense with the services of those whose integrity is doubtful so as to preserve purity in the administration.*

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*While misconduct and inefficiency are factors that enter into the account where the order is one of dismissal or removal or of retirement, there is this difference that while in the case of retirement they merely furnish the background and the enquiry, if held - and there is no duty to hold an enquiry - is only for the satisfaction of the authorities who have to take action, in the case of dismissal or removal they form the very basis on which the order is made, as pointed out by this Court in *Shyam Lal v. State of U.P., AIR 1954 Supreme Court 369.*"*

9. *In Union of India & Ors. v. Dulal Dutt, 1993(2) SCC 179 : 1993(4) SCT 30 (SC), this Court reiterated the view held right from the case of *R.L. Butail v. Union of India, 1970(2) SCC 876* and *Union of India v. J.N. Sinha, 1970(2) SCC 458* "that an order of a compulsory retirement is not an order of punishment. It is actually a*



*prerogative of the Government but it should be based on material and has to be passed on the subjective satisfaction of the Government. Very often, on enquiry by the Court, the Government may disclose the material but it is very much different from the saying that the order should be a speaking order. No order of compulsory retirement is required to be a speaking order."*

10. *In another decision in J.D. Srivastava v. State of M.P. & Ors., 1984(2) SCC 8, in paragraph 7 of the judgment, it was observed by this Court as under:*

*"But being reports relating to a remote period, they are not quite relevant for the purpose of determining whether he should be retired compulsorily or not in the year 1981, as it would be an act bordering on perversity to dig out old files to find out some material to make an order against an officer."*

11. *The law relating to compulsory retirement has now crystallized into definite principles, which could be broadly summarised thus :*

*(i) Whenever the services of a public servant are no longer useful to the general administration, the officer can be compulsorily retired for the sake of public interest.*

*(ii) Ordinarily, the order of compulsory retirement is not to be treated as a punishment coming under Article 311 of the Constitution.*

*(iii) For better administration, it is necessary to chop off deadwood, but the order of compulsory retirement can be passed after having due regard to the entire service record of the officer.*



*(iv) Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.*

*(v) Even uncommunicated entries in the confidential record can also be taken into consideration.*

*(vi) the order of compulsory retirement shall not be passed as a short cut to avoid departmental enquiry when such course is more desirable.*

*(vii) If the officer was given a promotion despite adverse entries made in the confidential record, that is a fact in favour of the officer.*

*(viii) Compulsory retirement shall not be imposed as a punitive measure.*

*12. In the instant case, there were absolutely no adverse entries in respondent's confidential record. In the rejoinder filed in this Court also, nothing has been averred that the respondent's service record revealed any adverse entries. The respondent had successfully crossed the efficiency bar at the age of 50 as well 55. He was placed under suspension on 22.5.1986 pending disciplinary proceedings. The State Government had sufficient time to complete the enquiry against him but the enquiry was not completed within a reasonable time. Even the Review Committee did not recommend the compulsory retirement of the respondent. The respondent had only less than two years to retire from service. If the impugned order is viewed in the light of these facts, it could be said that the order of compulsory retirement was passed for extraneous reasons. As the authorities did not wait for the conclusion of the enquiry and decided to dispense with the services of the respondent merely on the basis of the allegations which*



*had not been proved and in the absence of any adverse entries in his service record to support the order of compulsory retirement, we are of the view that the Division Bench was right in holding that the impugned order was liable to be set aside. We find no merit in the appeal, which is dismissed accordingly. However, three months' time is being given to the appellant-State to comply with the directions of the Division Bench, failing which the respondent would be entitled to get interest at the rate of 18% for the delayed payment of the pecuniary benefits due to him.*

*Appeal dismissed.”*

5.3. While the aforesaid legal principles would be applicable in every case of premature retirement, however, it is trite law that in the case of judicial officers, the yardsticks required to be adopted, are different and more strict. The legal position settled in the judgements of **Pyare Mohan Lal vs. State of Jharkhand, Ram Murti Yadav vs. State of Uttar Pradesh and Anr., 2020(1) SCT 299, and Central Industry Security Force Vs. HC (GD) Om Prakash, supra,** would have to borne in mind, while exercising the limited powers of judicial review in such matter. It would also be apposite to refer to the observations of the Hon'ble Supreme Court in the case of **Rajendra Singh Verma (Dead) Through LRs. v. Lieutenant Governor (NCT of Delhi) (SC) 2011(10) SCC,** as contained in paragraph 192 of the judgment, which are extracted as under:

*“192. Normally, the adverse entry reflecting on the integrity would be based on formulations of impressions which would be result of multiple factors simultaneously playing in the mind. Though the perceptions may differ in the very nature of things*



*there is a difficulty nearing an impossibility in subjecting the entries in the confidential rolls to judicial review. Sometimes, if the general reputation of an employee is not good though there may not be any tangible material against him, he may be compulsorily retired in public interest. The duty conferred on the appropriate authority to consider the question of continuance of a judicial officer beyond a particular age is an absolute one. If that authority bona fide forms an opinion that the integrity of a particular officer is doubtful, the correctness of that opinion cannot be challenged before courts. When such a constitutional function is exercised on the administrative side of the High Court, any judicial review thereon should be made only with great care and circumspection and it must be confined strictly to the parameters set by this Court in several reported decisions. When the appropriate authority forms bona fide opinion that compulsory retirement of a judicial officer is in public interest, the writ Court under Article 226 or this Court under Article 32 would not interfere with the order.”*

5.4. It is in this context that we have examined the facts and circumstances involved in the present petitions and are of the opinion that once there are certain remarks in the ACRs, which have been scrutinized by the Administrative Committee and thereafter the Full Court, we cannot delve into the adequacy/sufficiency of the material in this regard, keeping in view the limited scope of interference in exercise of powers of judicial review.

5.5. We are not impressed by the argument of the learned Senior counsel appearing on behalf of the petitioners, that the petitioners had an unblemished service record and only one ACR, wherein they were ranked as ‘B Average’, cannot be a basis for retiring them prematurely. A careful



perusal of the ACRs as tabulated hereinabove, would show that there were repeated observations/remarks including those pertaining to honesty/integrity of the petitioners starting from the year 2009 onwards itself. The High Court has, therefore, kept in mind the overall service record and placed reliance upon the later ACRs before coming to the conclusion to retire the petitioner compulsorily.

5.6. Reliance on the judgment in **Joginder Singh vs. Haryana State Electricity Board, Chandigarh (supra)**, would not come to the aid of the petitioners, since admittedly, there were no remarks regarding integrity in that case.

5.7. The arguments regarding the decision of premature retirement being in variance with the guidelines of the Full Court dated 14.03.2011 and Rule 8 of the 2007 Rules, are equally misconceived. The decision taken during the Full Court meeting on 14.03.2011 was limited to the extent that earning of 'B+ (Good)' grading in the latest ACRs will not *ipso facto* disentitle the officer to be retained in service, provided the ACRs of the last five years indicate consistent good performance. The said decision is wholly inapplicable in the facts and circumstances of the instant case, where the petitioners have been retired prematurely, keeping in view their overall service record and essentially the observations regarding their integrity. The Rules of 2007 pertains to promotion and has no applicability whatsoever, in the cases of premature retirement, which is governed by Rule 3 of the said Rules, which gives the absolute right to the appropriate authority to retire an employee on the date which he/she completes the requisite qualifying



service or attain the age of 50 years, if it is of the opinion that it is in public interest to do so.

5.8. We also do not find force in the argument that action of the respondents in retiring the petitioners prematurely, is solely based upon disciplinary proceedings, which have not attained finality. After examining the ACRs, we are of the view that the observations regarding integrity were not merely based upon the disciplinary proceedings, besides the fact that other shortcomings like punctuality, shirking or work etc. were also observed. More importantly, scrutiny of the records does not reveal that the disciplinary proceedings were deliberately kept pending or that the action of premature retirement was an oblique method to circumvent the detailed procedure of disciplinary proceedings. We are therefore of the opinion, that the orders/action of the respondents would not warrant any interference on the ground of pendency of disciplinary proceedings.

5.9. So far as the argument regarding the element of bias, although there are no such pleadings or grounds in the petitions, yet after examining the allegations in the review petition, we do not find any substance in the same. The basis for our reaching such a conclusion is that the adverse remarks/observations against the petitioners have also found mention in two other ACRs, which are not recorded by the concerned Administrative Judge. There is no allegation regarding the other two Administrative Judges, who also made some of the observations/remarks. We may also take notice of the fact the concerned Administrative Judge stood retired in the year 2013, while the orders of premature retirement were passed subsequently. Cyclostyled allegations have been levelled by both the petitioners, and it is



clear that the same are an afterthought. Such allegations are in any case ruled out when the Administrative Committee and thereafter the Full Court, in its collective wisdom took the decision to retire the petitioners prematurely after considering their overall service record. In such circumstances, we are of the view that the petitioners have failed to prove the allegation of bias.

5.10. *De hors* the above observations, we however, are not in agreement with the respondents that the petitions should be dismissed in *limine*, merely on the ground that the decision-making process or the orders passed by the High Court, have not separately been challenged. Once the final order passed by the competent authority is under challenge, the petitioners cannot be non-suited on this hyper-technical ground.

5.11. As regards the second issue, pertaining to the question whether the period of suspension could have been treated as leave of kind due, we are of the opinion that since it is an admitted fact that the Full Court decided that the disciplinary proceedings against the petitioners was to be kept in abeyance, then the decision to treat the period of suspension as leave of kind due and recovery and the orders of recovery, basis thereupon, cannot sustain. The Hon'ble Supreme Court in the case of **State of Punjab v. Rafiq Masih (White Washer) : 2015(4) SCC 334** has *inter alia* observed as under:

*“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference,*



*summarise the following few situations, wherein recoveries by the employers, would be impermissible in law :*

*(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).*

*(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.*

*(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*

*(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*

*(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”*

5.12. Keeping in view the peculiar circumstances involved, we find that the decision to order recovery, after the premature retirement and keeping the disciplinary proceedings in abeyance, would be unwarranted iniquitous and against the basic tenets enshrined under Article 21 of the Constitution of India. However, since the challenge to the order dated 07/12.02.2018 (Annexure P-9) whereby the suspension period was treated as leave of the kind due, and for quashing the orders dated 13.06.2018, 04.04.2019 and 27.08.2019 (Annexures P-10, P-11 & P-12), whereby an amount of Rs.23,85,664/-, is being recovered, has been raised only by the



petitioner-Ravinder Kumar Condal in CWP No.16022 of 2021 and therefore, the relief in this regard would have to be restricted to the said petitioner alone.

5.13. As a result of the above discussion and findings, CWP No. 16020 of 2021, is dismissed, while CWP No. 16022 of 2021, is partially allowed and the order dated 07/12.02.2018 (Annexure P-9), and the orders dated 13.06.2018, 04.04.2019 and 27.08.2019 (Annexures P-10, P-11 & P-12) are hereby set aside.

6. All the pending application(s), if any, stands disposed of accordingly.

7. A photocopy of this order be placed on the file of connected case.

**( ASHWANI KUMAR MISHRA )**  
**JUDGE**

**( ROHIT KAPOOR )**  
**JUDGE**

**21/11/2025**

*Dinesh/raj*

*Whether speaking/reasoned* : **Yes**

*Whether Reportable* : **No**