HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 12748/2020

Arvind Charan S/o Shri Durgadan Charan, Aged About 47 Years, R/o 157, Laxmi Nagar, Paota B Road, Jodhpur, Rajasthan.

----Petitioner

Versus

1. The State Of Rajasthan, Through The Secretary Department Of Home Affairs, Government Of Rajasthan, Jaipur.
2. The Secretary, Department Of Personnel, Government Of Rajasthan, Jaipur.
3. The Director General Of Police, Jaipur, Rajasthan.
4. The Inspector General Of Police, Jodhpur Range, Jodhpur.

----Respondents

For Petitioner(s) : Mr. Mrigraj Singh Rathore
Mr. DD Charan
Ms. Twinkle Purohit

For Respondent(s) : Mr. Raj Singh Bhati
Mr. Rituraj Singh Bhati
Mr. Paramveer Singh

HON'BLE MR. JUSTICE FARJAND ALI

DATE OF CONCLUSION OF ARGUMENTS : 21/11/2025

DATE ON WHICH ORDER IS RESERVED : 21/11/2025

FULL ORDER OR OPERATIVE PART : Full Order

DATE OF PRONOUNCEMENT : 28/01/2026

REPORTABLE

BY THE COURT:-

1. The present writ petition under Article 226 of the Constitution of India has been instituted by the petitioner assailing

the order dated 09.07.2020 passed by respondent No.3, whereby the petitioner has been directed to be compulsorily retired from service.

2. Briefly stated the facts of the case are that the petitioner entered service as Sub-Inspector in the respondent department on 19.08.1996 and, after successfully undergoing the selection and promotional process, was promoted as Inspector of Police on 20.02.2009. Throughout his career, his service record remained consistently meritorious, reflected by 'very good' and 'excellent' Annual Appraisal Reports, awards and commendations, and efficient discharge of duties in sensitive assignments including Parliamentary and Assembly Elections, though he was visited only with minor penalties of censure on certain occasions. While he was still left with about thirteen years of service and was discharging duties as Inspector of Police, District Jaisalmer, the respondents, without recording any reasons and without adhering to the mandatory procedure prescribed under Rule 53(1) of the Rajasthan Civil Services (Pension) Rules, 1996 (hereinafter to be referred as "The Rules of 1996") and the Circular dated 21.04.2000, issued the impugned order dated 09.07.2020 directing his compulsory retirement. Aggrieved thereby, the petitioner has approached this Court assailing the said action as arbitrary, illegal and contrary to the settled principles governing compulsory retirement in public service.

3. Heard learned counsel appearing on behalf of the parties and perused the annexures attached with the writ petition.

4. Upon thoughtful consideration of the pleadings and the record placed before this Court, it emerges that the impugned order of compulsory retirement dated 09.07.2020 has been passed on the ostensible ground of "ineffectiveness" of the petitioner while invoking Rule 53(1) of the Rules of 1996. At the outset, it is noticed that the petitioner entered the service of the respondent department as Sub-Inspector vide order dated 19.08.1996 and was thereafter promoted to the post of Inspector (Police) on 20.02.2009. The service career of the petitioner spans more than two decades and, prima facie, reflects a long tenure of regular service.

5. It is not in dispute that during the period between 2000 and 2019, the petitioner was subjected to certain minor penalties, including censures and stoppage of increments, on allegations of supervisory negligence and allied lapses. However, it is equally undisputed that these penalties were of a minor nature and stood concluded at the relevant point of time. To rely upon such concluded punishments as the sole foundation for compulsory retirement would, in the considered opinion of this Court, partake the character of a second punishment for the same set of lapses, which is impermissible in law.

6. What weighs more heavily with this Court is the consistent and meritorious service record of the petitioner as reflected from

his Annual Confidential Report (hereinafter to be referred as "ACR"). The record reveals that for successive years the petitioner has been graded as "Very Good" and even "Outstanding", particularly for the years 2012-13 to 2018-19, with two consecutive "Outstanding" gradings in 2016-17 and 2017-18. The performance record, far from depicting inefficiency, demonstrates sustained competence and professional excellence.

7. Before adverting into the merits of the case, the scope of compulsory retirement under Rule 53(1) of the Rules of 1996 is that the power can be exercised only in public interest and upon a holistic assessment of the entire service record of the employee. The competent authority is required to take into consideration the overall performance, integrity, efficiency, usefulness in service, entries in the Annual Confidential Reports, past conduct, and whether the continuance of the employee would be detrimental to administrative efficiency or public interest. The rule does not contemplate punishment in the guise of compulsory retirement, nor does it permit selective reliance on adverse material while ignoring consistent good and outstanding service records. The decision must be founded on cogent, relevant and sufficient material and must not be arbitrary, punitive or based on isolated incidents. For ready reference, Rule 53(1) of the Rules of 1996 is reproduced herein below:-

> "**53. Compulsory retirement on completion of 15 years qualifying service.**
>
> (1) At any time, after a Government servant has completed 15 years qualifying service or has attained the age of 50

> years, whichever is earlier, the appointing authority, upon having been satisfied that the concerned government servant has on account of his indolence or doubtful integrity or incompetence to discharge official duties or inefficiency in due performance of official duties, has lost his utility, may require the concerned Government servant to retire in public interest after following the procedure laid down by the Government in Department of Personnel/Administrative Reforms Department. In case of such retirement, the Government servant shall be entitled to retiring pension."

From a bare perusal of the aforesaid rule, it is manifest that the power of compulsory retirement is not unfettered, mechanical or punitive in nature. The rule contemplates the existence of objective satisfaction of the appointing authority, founded upon relevant material, that the government servant, on account of indolence, doubtful integrity, incompetence or inefficiency, has in fact lost his utility in public service. The formation of such satisfaction must necessarily be preceded by a fair, holistic and objective assessment of the entire service record of the employee and cannot be based on stray, isolated or stale incidents. The rule further postulates that compulsory retirement is to be ordered strictly "in public interest" and only after following the prescribed procedure. It is neither intended to operate as a measure of punishment nor to serve as a short-cut to dispense with the services of an employee against whom disciplinary proceedings have either failed or are otherwise not tenable. The expression "has lost his utility" presupposes a consistent pattern of inefficiency, incompetence or doubtful integrity, duly reflected in the service record, and not a mere subjective impression or selective reliance on adverse entries. The exercise of power under

Rule 53(1) must satisfy the twin tests of public interest and objective assessment of the entire service profile.

8. The circular dated 21.04.2000 issued by the Department of Personnel lays down a clear and binding guideline that where compulsory retirement is proposed on the ground of "ineffectiveness", the actual performance of the Government servant in the *preceding five years* must receive primary consideration. For ease of reference, the relevant part of the circular dated 21.04.2000 is reproduced herein below:-

"GOVERNMENT OF RAJASTHAN

DEPARTMENT OF PERSONNEL (A-I/ACR cell)

No. F.13(53) Karmik. ACR/90 Jaipur, dated 21 April, 2000

CIRCULAR

Sub: **Compulsory retirement under Rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996**

Attention is invited to this Department circulars of even number dated 23.4.90, 25.3.90, 14.10.94, 26.9.96, 21.10.97, 2.11.98, 26.4.99, 29.9.99 & 2.2.2000 and new Rule 53(1) of Rajasthan Civil Services (Pension) Rules 1996\ *old rule 24412) of RSR*;) which empower the Appointing Authority to retire any government servant in public interest upon having been satisfied that the concerned Government servant has on account of his indolence or doubtful integrity or incompetence to discharge official duties or inefficiency in due performance of official duties, has lost his utility by giving him 3 months clear notice in writing or giving bank draft of the amount equivalent to three months pay and allowances in lieu of such notice after completion of 15 years qualifying service or attaining age of 50 years whichever is earlier.

While State Government have issued guidelines on the subject from time to time it has been observed that sufficient importance has not been given in implementing these guidelines and instructions. In supersession of all earlier Circulars on the above subject, the following guide-lines are hereby issued for strict compliance:

1. On the 1st of April every year, each Appointing Authority shall prepare a list of persons who would he completing 15 years of qualifying service or who would he attaining the age of 50 years. Such lists should be drawn up separately for each service, cadre or category of employees working under the Appointing Authority concerned. The list should he in the form of a statement under the following headings:-

I. S. No

2. Name of Officer.

3. Department to which belongs.

4. Designation.

5. Date of birth

6. Date of commencement of qualifying service.

7. Date of completion of 15 years qualifying service.

8. Date of superannuation.

9. Date of attaining 50 years of age.

10. Recommendations of the Internal Screening Committee.

(The Committee should given detailed recommendations along with reasons).

2. Cases of government servants included in the list mentioned above shall first be examined by the Screening Committee internal to the department. The Internal Screening Committee may consist of two officers nominated by the Appointing Authority. The Internal Screening Committee should function as a Standing Committee rather than as a body set up 'adhoc' only at the time when cases are considered for premature retirement. The officers nominated to the Internal Screening Committee should as far as possible have knowledge of the working of the department and the performance of officers and staff in general. The main functions of the Internal Screening Committee would he to prepare a comprehensive brief of each employee for consideration by the Review Committee which would be finalizing the recommendations of the Internal Screening Committee for compulsory retirement under Rule 53(1) of the Rajasthan Civil Services (Pension) Rules 1996. All the appointing authorities shall constitute Internal Screening Committee accordingly.

PERUSAL OF ENTIRE SERVICE RECORD:

The Internal Screening Committee should prepare a brief after perusing the entire service record of a

government servant. However, in cases where the retirement is sought to he made for in-effectiveness, the actual performance in preceding 5 years may be concentrated upon for the purpose of screening. There is no such stipulation in respect of the cases where the government servant is to be retired on grounds of doubtful integrity. In such cases all adverse material is to be considered.

The term 'service record' is to be considered in the wider sense and the review should not be continued to the consideration of only the Annual Confidential remarks recorded in the APAR of the government servant. In certain departments, Government servants deal with files relating to contracts settlement of claims making purchases and discharging bills assessing taxes or excise duties etc. In many cases, doubts might have arisen on the bonafide nature of action taken by an employee but no concrete action was taken for want of adequate proof in a regular departmental enquiry leading to punishment under the Rajasthan CCA Rules where the personal file of the officer has details of the nature of doubt concerning his integrity of results of preliminary investigations carried out are available, these should also be considered and placed before the Review Committee. Where details of such cases are on a separate main file but have not been brought to the personal file of the government servant, the Internal Screening Committee should ensure that extracts from such subject matter file or the file itself is also placed before the Review Committee for consideration. This should be done well ahead of the meeting of the Screening Committee or Review Committee so that a total assessment of the performance of the government servant is possible at the appropriate time."

A bare perusal of the material placed before this Court reveals that the Internal Screening Committee and the Review Committee have completely ignored this mandate. The ACR's of the petitioner for the crucial preceding years, which are uniformly "Very Good" and "Outstanding", do not appear to have been accorded any due weightage. On the contrary, the impugned decision rests predominantly upon old and minor penalties,

without any meaningful assessment of the petitioner's recent performance. There appears to be a manifest dichotomy and self-contradiction in the action of the respondents. On the one hand, for the preceding five years, the service record of the petitioner has consistently reflected "Good", "Very Good" and even "Outstanding" performance. On the other hand, the very foundation for dispensing with his services has been alleged "ineffectiveness". Such an approach is inherently arbitrary and legally unsustainable. A person whose performance has been adjudged as excellent and outstanding cannot, in the same breath, be branded as ineffective and consequently shown the door. This glaring inconsistency strikes at the root of fairness and reasonableness and renders the impugned action vitiated by non-application of mind.

9. This Court also finds that the allegations forming the basis of certain censures, such as delay in forwarding case diaries or a single instance of absence from duty, are trivial in nature and cannot, by any stretch of reasoning, justify the extreme measure of compulsory retirement, particularly when the overall service profile remains unblemished in its later phase. Compulsory retirement, though not a punishment in strict sense, is nevertheless a drastic power which must be exercised sparingly, objectively and strictly in accordance with the governing rules and circulars. The authority is under an obligation to form a bona fide opinion on the basis of the entire service record, giving primacy to recent performance where inefficiency is alleged. Selective

consideration of adverse material, while completely ignoring consistent excellence and departmental commendations, betrays non-application of mind and arbitrariness.

10. Hon'ble the Supreme Court in the case of **Nand Kumar Verma v. State of Jharkhand** reported in **(2012) 3 SCC 580** held that that the High Court had acted improperly in initiating a second inquiry on charges which already stood concluded, thereby violating the principles of fairness and natural justice. The Court further observed that the High Court had selectively relied upon portions of the service record while directing compulsory retirement, and that such a drastic action was taken in the absence of sufficient and cogent material to justify the same. For ease of reference, the relevant paragraphs of the judgment are reproduced herein below:-

> "**28.** We now proceed to consider the second order passed by the High Court for recommending the case of the appellant to the State Government to accept and issue appropriate notification to compulsorily retire the appellant from judicial service. It is now well settled that the object of compulsory retirement from service is to weed out the dead wood in order to maintain a high standard of efficiency and honesty and to keep the judicial service unpolluted. Keeping this object in view, the contention of the appellant has to be appreciated on the basis of the settled law on the subject of compulsory retirement.
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> **29.** In *Baikuntha Nath Das* v. *District Medical Officer* [(1992) 2 SCC 299 : 1993 SCC (L&S) 521 : (1992) 21 ATC 649] a three-Judge Bench of this Court has laid down the principles regarding the order of compulsory retirement in public interest : (SCC pp. 315-16, para 34)
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> > "*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.

Interference is permissible only on the grounds mentioned in (*iii*) above. This aspect has been discussed in paras 30 to 32 above."

30. "*28*. In … *Madan Mohan Choudhary* v. *State of Bihar* [(1999) 3 SCC 396 : 1999 SCC (L&S) 700] this Court was considering the order of compulsory retirement of the appellant, who was a member of the Superior Judicial Service in the State of Bihar. On a writ petition filed by the appellant in the High Court, challenging his order of compulsory retirement by the Full Court of the High Court, the High Court on the judicial side refused to interfere and

dismissed the petition. The appellant came in appeal before this Court. This Court found that while on various earlier occasions remarks were given by the High Court but there were no entries in the character roll of the appellant for the years 1991-1992, 1992-1993 and 1993-1994. The entries for these years were recorded at one time simultaneously and the appellant was categorised as 'C' Grade officer. The date on which these entries were made was not indicated either in the original record or in the counter-affidavit filed by the respondent. These were communicated to the appellant on 29-11-1996 and were considered by the Full Court on 30-11-1996. It was clear that these entries were recorded at a stage when the Standing Committee had already made up its mind to compulsorily retire the appellant from service as it had directed the office on 6-11-1996 to put up a note for compulsory retirement of the appellant. This Court held that it was a case where there was no material on the basis of which an opinion could have been reasonably formed that it would be in the public interest to retire the appellant from service prematurely. This Court was of the opinion that the entries recorded 'at one go' for three years, namely, 1991-1992, 1992-1993 and 1993-1994 could hardly have been taken into consideration. The Court then referred to its earlier decision in *High Court of Madras* v. *R. Rajiah* [(1988) 3 SCC 211 : 1988 SCC (L&S) 743] where this Court said that the High Court in its administrative jurisdiction has the power to recommend compulsory retirement of the member of the judicial service in accordance with the rules framed in that regard but it cannot act arbitrarily and there has to be material to come to a decision to compulsorily retire the officer. In that case it was also pointed out that the High Court while exercising its power of control over the subordinate judiciary is under a constitutional obligation to guide and protect judicial officers from being harassed or annoyed by trifling complaints relating to judicial orders so that the officers may discharge their duties honestly and independently, unconcerned by the ill-conceived or motivated complaints made by unscrupulous lawyers and litigants. [**Ed.** : As observed in *High Court of Punjab & Haryana* v. *Ishwar Chand Jain*, (1999) 4 SCC 579, pp. 595-96, para 28.] "

31. ……..

32. We also add that when an order of compulsory retirement is challenged in a court of law, the court has the right to examine whether some ground or material germane to the issue exists or not. Although, the court is not

interested in the sufficiency of the material upon which the order of compulsory retirement rests.

33. This Court in High Court of Punjab & Haryana v. Ishwar Chand Jain [(1999) 4 SCC 579 : 1999 SCC (L&S) 881] , has discussed the purpose, importance and effect of the remarks made during inspection which ultimately become the part of the ACR of the judicial officer concerned. This Court has observed thus : (SCC pp. 597-98, para 32) "32. Since late this Court is watching the spectre of either judicial officers or the High Courts coming to this Court when there is an order prematurely retiring a judicial officer. Under Article 235 of the Constitution the High Court exercises complete control over subordinate courts which include District Courts. Inspection of the subordinate courts is one of the most important functions which the High Court performs for control over the subordinate courts. The object of such inspection is for the purpose of assessment of the work performed by the Subordinate Judge, his capability, integrity and competency. Since Judges are human beings and also prone to all the human failings inspection provides an opportunity for pointing out mistakes so that they are avoided in future and deficiencies, if any, in the working of the subordinate court, remedied. Inspection should act as a catalyst in inspiring Subordinate Judges to give the best results. They should feel a sense of achievement. They need encouragement. They work under great stress and man the courts while working under great discomfort and hardship. A satisfactory judicial system depends largely on the satisfactory functioning of courts at the grass roots level. Remarks recorded by the Inspecting Judge are normally endorsed by the Full Court and become part of the annual confidential reports and are foundations on which the career of a judicial officer is made or marred. Inspection of a subordinate court is thus of vital importance. It has to be both effective and productive. It can be so only if it is well regulated and is workman like. Inspection of subordinate courts is not a one-day or an hour or a few minutes' affair. It has to go on all the year round by monitoring the work of the court by the Inspecting Judge. A casual inspection can hardly be beneficial to a judicial system. It does more harm than good."

34. It is also well settled that the formation of opinion for compulsory retirement is based on the subjective satisfaction of the authority concerned but such satisfaction must be based on a valid material. It is permissible for the courts to ascertain whether a valid material exists or

otherwise, on which the subjective satisfaction of the administrative authority is based. In the present matter, what we see is that the High Court, while holding that the track record and service record of the appellant was unsatisfactory, has selectively taken into consideration the service record for certain years only while making extracts of those contents of the ACRs. There appears to be some discrepancy. We say so for the reason that the appellant has produced the copies of the ACRs which were obtained by him from the High Court under the Right to Information Act, 2005 and a comparison of these two would positively indicate that the High Court has not faithfully extracted the contents of the ACRs.

35. The High Court has taken the decision on the basis of selective service record which includes the summarised ACRs, as quoted in the impugned judgment, for the selected years. The ACRs for the initial years 1975-1976 and 1976-1977 remark him as capable of improvement against the quality of work, the ACRs for the years 1982-1983, 1983-1984 point that his work is unsatisfactory, the ACRs for the years 1984-1985, 1987-1988 remark his work performance as unsatisfactory with bad reputation and quarrelsome attitude, and the ACRs for the later years 1993-1994 and 1994-1995 refer to some private complaints and remark that his powers were divested by the High Court and the ACRs for the recent years 1997-1998 and 1998-1999 point no defect in judicial work but disposal of cases is poor. Whereas, the appellant furnished certain service records which include the ACR recorded by the Inspecting Judge in the year 1985 which evaluate the appellant as B — Satisfactory against the entry "Net result", further the ACR prepared by the District and Sessions Judge, Samastipur for the year 1997-1998 assessed him as an officer of average merit, maintaining good relationship with bar, staff and colleagues but poor disposal, and the ACR prepared by the District and Sessions Judge, Muzaffarpur for the year 1998-1999 assessed him as a good officer but poor disposal. However, his poor disposal during this period is justified up to certain extent in the background of his involvement in the continuous and unnecessary disciplinary proceedings which was based on the charges of granting of bail indiscriminately, even after the fact that he had been exonerated of these charges long back in the year 1995 by the High Court at Patna.

36. The material on which the decision of the compulsory retirement was based, as extracted by the High Court in the impugned judgment, and material furnished by the

appellant would reflect that totality of relevant materials were not considered or completely ignored by the High Court. This leads to only one conclusion that the subjective satisfaction of the High Court was not based on the sufficient or relevant material. In this view of the matter, we cannot say that the service record of the appellant was unsatisfactory which would warrant premature retirement from service. Therefore, there was no justification to retire the appellant compulsorily from service.

37. In Swami Saran Saksena v. State of U.P. [(1980) 1 SCC 12 : 1980 SCC (L&S) 129] this Court has quashed the order of compulsory retirement of the appellant therein in the public interest, which was found to be in sharp contradiction with his recent service performance and record. This Court observed : (SCC p. 14, para 3) "3. … Ordinarily, the court does not interfere with the judgment of the relevant authority on the point whether it is in the public interest to compulsorily retire a government servant. And we have been even more reluctant to reach the conclusion we have, when the impugned order of compulsory retirement was made on the recommendation of the High Court itself. But on the material before us we are unable to reconcile the apparent contradiction that although for the purpose of crossing the second efficiency bar the appellant was considered to have worked with distinct ability and with integrity beyond question, yet within a few months thereafter he was found so unfit as to deserve compulsory retirement. The entries in between in the records pertaining to the appellant need to be examined and appraised in that context. There is no evidence to show that suddenly there was such deterioration in the quality of the appellant's work or integrity that he deserved to be compulsorily retired. For all these reasons, we are of opinion that the order of compulsory retirement should be quashed. The appellant will be deemed to have continued in service on the date of the impugned order.""

11. In the present case, this Court finds that the respondent authorities have failed to adhere to the binding guidelines contained in Rule 53(1) of the Rules of 1966 and circular dated 21.04.2000. They have neither evaluated the petitioner's performance in the preceding five years nor recorded any cogent

reason demonstrating loss of utility or inefficiency. The impugned order appears to be founded solely on past minor penalties, which had already worked themselves out, thereby rendering the action manifestly unjust and legally unsustainable. For the foregoing reasons, this Court is of the considered view that the impugned order of compulsory retirement dated 09.07.2020 suffers from arbitrariness, non-compliance of mandatory guidelines and lack of proper application of mind, and therefore cannot be sustained in the eyes of law.

12. In view of the above discussion, the instant writ petition is allowed. The order dated 09.07.2020 passed by the respondent No.3 is quashed and set aside. The respondent No.3 is directed to reinstate the petitioner into services with all notional benefits w.e.f. 09.07.2020, the date on which he was compulsory retired from the services.

13. Stay petition and pending applications stands disposed of.

14. No order as to costs.

(FARJAND ALI),J

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