



**Central Administrative Tribunal  
Principal Bench, New Delhi**

**O.A. No. 1090/2020**

**Orders reserved on : 21.06.2021  
Orders pronounced on : 16.07.2021**

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Shri A.K.Dixit, S/o Shri K.N.Dixit,SE (Rt.)  
Age 57 yrs, R/o 29/30,East Patel Nagar,  
New Delhi-110 008. ... Applicant

(through Mr.Rajeev Sharma, Advocate)

**Versus**

The Commissioner,  
North Delhi Municipal Corporation,  
Dr. S.P.Mukherjee Civic Centre,  
J.L.Marg,New Delhi. ... Respondent

(through Mr. R.V.Sinha, Advocate)

**ORDER**

**Justice L. Narasimha Reddy, Chairman:**

The applicant joined the Municipal Corporation of Delhi as Assistant Engineer (AE) (Civil) in the year 1990. Thereafter, he was promoted to the post of Executive Engineer (EE) (Civil) on ad hoc basis in January 2000, and regular EE in the year 2017, on the



recommendations of the UPSC, vide office order dated 08.06.2017. On trifurcation of the Municipal Corporation of Delhi, he was allotted to the North Delhi Municipal Corporation (NDMC), the respondent herein. Through an order dated 31.10.2019, the respondent retired the applicant by invoking the power under Fundamental Rule (FR) 56 (j) and Rule 48 of CCS (Pension) Rules, 1972, before the latter attained the age of superannuation. The representation made by the applicant was rejected on 17.02.2020. This OA is filed challenging the order of premature retirement and the order of rejection of representation.

2. The applicant contends that he rendered meritorious service ever since he was appointed and in recognition of the same, he was assigned additional charge of various posts. He further contends that though he had been issued number of charge sheets, he was exonerated in most of them. He further submits that his ACRs for 31 years are not only Very Good, but also Outstanding in certain years, and that he is not involved in any departmental case in which any penalty was



imposed, after his promotion in 2017 and that the impugned order cannot be sustained in law.

3. The respondent filed a detailed reply. It is stated that with a view to bring about transparency and efficiency in their Corporation, they constituted a committee of senior most officers to review the case of Group-B officers, who crossed the age of 50 years, and after verifying the entire record of the applicant, the committee recommended his premature retirement. It is stated that the applicant was imposed punishments of various kinds under DMC Services (Control and Appeal) Regulations 1959, and that is certainly a factor to be taken into account, while reviewing the cases on completion of certain length of service. Moreover, the Corporation has not opted CCS (CCA) Rules, 1965. The respondent had also given a brief background of the penalties imposed on the applicant.

4. We heard Mr.Rajeev Sharma, learned counsel for the Applicant, and Mr.R.V.Sinha, learned counsel for the Respondent.



5. The applicant was retired from service, before he attained the age of superannuation. It is not a measure of punishment and the order was passed by invoking the power under 56 (j). The parameters for adjudication of the matters of this nature are clearly stated by the Hon'ble Supreme Court. After reviewing the various judgments rendered on the subject upto that stage, the Hon'ble Supreme Court enunciated the following principles in its judgment in **Baikuntha Nath Das & another vs. Chief Distt. Medical Officer, Baripada & another**, 1992 AIR 1020. They read 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. Interference is permissible only on the grounds mentioned in (iii) above.”*

It was clearly observed that the premature retirement by invoking the power under FR.56 (j) does not amount to punishment and it is a measure to add efficiency and honesty in the departments.

#### 6. In ***State of Gujarat Vs. Umedbhai M. Patel (2001)***

**3 SCC 314**, the Hon'ble Supreme Court observed that in case an employee is promoted and no disciplinary proceedings are initiated against him after such promotion, the invocation of the power under FR. 56 (j) cannot be sustained. However, in its subsequent judgements in ***Pyare Mohan Lal Vs. State of Jharkhand (2010) 10 SCC 693***, and ***Punjab State***



### ***Power Corporation Vs. HariKishan Verma(2015)13***

**SCC 156**, the Hon'ble Supreme Court took the view that consideration of the record of an officer in this behalf, cannot be confined to any particular period and the record in its entirety needs to be taken note of.

7. Another aspect, which needs to be taken into account is that the Tribunal can certainly interfere with the order of premature retirement in case there does not exist anything adverse to the employee in his entire career. However, if some material or facts as such exist, the Tribunal cannot go into the adequacy thereof. It is with reference to these principles, that the case of the applicant needs to be examined.

8. After the applicant joined the service of the Municipal Corporation in the year 1990, he earned promotions to the post of AE (Civil) and was assigned additional charge of various important posts. At that stage, the order of premature retirement was passed. Much argument is advanced by the learned counsel that though the applicant was issued number of charge memo, most of them ended in exoneration of the



applicant, and after he was promoted to the post of AE, he did not face any such proceedings.

9. The respondents furnished the particulars of the disciplinary proceedings initiated against applicant. They read as under:-

**“Penalty in RDA case**

Sl. No.	RDA No.	Penalty
(i)	1/283/2004 of pay by cumulative	Reduction in pay in the present time scale of one stage for a period of one year with effect dated vide O.O. dated 01.2.2008.
(ii)	1/102/2007	Exonerated vide O.O. dated 27.10.2008.
(iii)	1/220/2003	Reduction in pay the present time scale of pay by two stages for a period of two years with cumulative effect vide O.O. dated 27.10.2011.
(iv)	1/304/2004	Reduction in the present time scale of pay By two stages for a period of two years with cumulative effect vide O.O.No.1/304/2004/Vig/P/AM/2008/71 7, dated 22.10.2008.
(v)	1/3/1997	Reduction in pay in the time scale of pay By two stages for six months without cumulative effect vide O.O. dated 19.03.1999.
(vi)	1/223/1994	Exonerated vide O.O. dt. 04.07.1995
(vii)	1/107/1997	Dropped vide O.O. dt. 12.10.1995
(viii)	1/152/2005	Exonerated vide O.O. dt. 14.01.2016
(ix)	1/47/2007	Exonerated vide O.O. dt. 28.04.2017
(x)	1/61/2015	Exonerated vide O.O. dt. 07.04.2017
(xi)	1/24/2016	Withdrew the proceedings vide O.O. dt.



<b>Police Case No.</b>	<b>Remarks</b>
1855/SIO(P) Vig./CBI/1996	FIR No.RC-17A/2005-DLI U/S 7 PC Act r/w 120-B IPC, P.S.-CBI Delhi. (Sh. A.K.Dixit has been Acquitted in the said case, vide judgment dt. 31.01.2014, however, final orders with regard to treatment of his suspension period is to be passed
1193/SIO (P) /Vig.CBI/1996	Sanction granted. Charge sheet filed on 30.06.2000. Acquitted vide Judgment Dated 19.01.2016.
2340/SIO(P)/Vig /CBI/2011	RC-DLI-2011-A0005, dt. 14.06.2011 u/s-7 PC Act, P.S.CBI/ACB Delhi The Competent Court has dropped the proceedings on the ground of invalid sanction. Now CBI has sought a fresh sanction from corporation which is yet to be decided.”

10. The applicant faced more than 20 proceedings. The amount of hardship undergone by the Corporation can easily be imagined. The respondents thought it fit to retire the applicant prematurely than to keep him on their rolls. As observed by the Hon'ble Supreme Court, the record of the employee, in its entirety needs to be



taken into account and it cannot be compartmentalised. The fact that he was promoted, makes no difference.

11. The premature retirement is not a punishment and the employee is allowed all the retirement benefits. The only difference is that the retirement takes place a bit earlier. If the Corporation felt that the premature retirement of the applicant would be in its interest as well as of the public, the Tribunal cannot find fault with that decision.

12. We do not find any merit in the OA and the same is accordingly dismissed. There shall be no order as to costs.

**(Mohd. Jamshed)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

*Dsn*