



2026:AHC:163033

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 48336 of 2005

Mohd. Jamil Warsi

.....Petitioner(s)

Versus

High Court Of Judicature At Allahabad Thru C.J.
And Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Prashant Kumar Tripathi, Rajeev Mishra
Counsel for Respondent(s)	:	Rahul Srivastava, C.S.C., K.R. Sirohi, Pradeep Kumar, Sameer Sharma

Court No. - 34

Sl. No. 16

AFR

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Shri Sanjay Kumar Srivastava, holding brief of Shri Prashant Kumar Tripathi, for the petitioner and Shri Dileep Kesarwani, learned Addl. C.S.C. for the State.

2. The instant petition has been filed by the petitioner seeking quashing of the order dated 26.4.2005 whereby after overall assessment of the petitioner's performance on completion of 50 years of age, the petitioner has been compulsorily retired. The petitioner has also challenged the order dated 5.5.2005 whereby his application for grant of the copy of the report of the committee constituted for assessment of the overall performance of the petitioner was rejected.

3. The petitioner herein was initially appointed in the year 1977 as Class

compulsory retirement, under Rule 56 C of the Fundamental Rules of Financial Handbook, Part II (Part II to IV). Being aggrieved with the order dated 26.4.2005, the instant petition has been filed by the petitioner.

4. Learned counsel for the petitioner submits that since the petitioner was promoted in the year 2000, therefore his previous conduct cannot be looked into and the subsequent promotion of the petitioner has washed out all his previous entries in his ACR. It is further submitted that the previous entries in the ACR could not be looked into by the respondents while considering the case of the petitioner for compulsory retirement.

5. Per contra, Sri Rahul Srivastava learned counsel for the respondents has submitted that the washed out theory has been negated by the Apex Court in number of judgments. To support his submission, he has relied upon the judgment of Apex Court in the case of ***Rajasthan State Road Transport Corporation and Others vs. Babu Lal Jangir (2013) 10 SCC 551***, wherein the previous judgments in this regard has been considered by the Apex Court and washed out theory has been negated and it has been held that previous entries against the employee do not lose significance even if the employee has subsequently been promoted. It is further submitted by learned counsel for the respondent that on 25.5.2015, the original record was called for and it was observed by this court that the petitioner's service record of ten years have been considered which is unsatisfactory and some fine was also imposed. The relevant observation, the order dated 25.5.2015 reads as under:

"Sri Samir Sharma, learned counsel for the respondent no. 2 has produced the original record. The original record indicates that the petitioner's service record of ten years have been considered which is unsatisfactory and some fine was also imposed."

dismissal of the instant petition.

7. Having heard the rival submissions made by learned counsel for the parties, this court has carefully gone through the record of the case. From the record, it is apparent that before passing the order of compulsory retirement dated 26.4.2005, the district judge has considered the overall performance of the petitioner for last 10 years, which was found unsatisfactory and fine was also imposed against the petitioner. The claim of the petitioner that since the petitioner has already been promoted in between in the year 2000, therefore, the previous conduct of the petitioner has been washed out is unsustainable in law. Though in some previous interpretations made by the Apex Court, the washed out theory was accepted. However, later in the ***State of Orissa vs. Ram Chandra (1996) 5 SCC 331***, which is a three Judge Bench judgment of the Apex Court, has negated the washed out theory and has observed as under:

"7. Merely because a promotion has been given even after adverse entries were made, cannot be a ground to note that compulsory retirement of the government servant could not ordered. The evidence does not become inadmissible or irrelevant as opined by the Tribunal. What would be relevant is whether upon that state of record as a reasonable prudent man could the Government or competent officer reach that decision. We find that selfsame material after promotion may not be taken into consideration only to deny him further promotion, if any. But that material undoubtedly would be available to the Government to consider the overall expediency or necessity to continue the government servant in service after he attained the required length of service or qualified period of service for pension."

8. The judgment in Ram Chandra Das has been followed in subsequent judgments i.e. in ***State of Gujarat vs. Umed Bhai M. Patel (2001) 3 SCC***

examination of the entire service records including character roll and confidential reports. Vigor or sting of an adverse entry is not wiped out merely it relates to the remote past. There may be a single adverse entry of integrity which may be sufficient to compulsory retire the government servant. This judgment has been further followed in ***Piyare Mohanlal vs. State of Jharkhand, (2010) 10 SCC 693***, wherein the Apex Court has observed that after the promotion of an employee, the adverse entries prior thereto would have no relevance and can be treated as wiped off when the case of the government employee is to be considered for further promotion. However, this wash of theory will have no application when the case of an employee is being assessed to determine whether he is fit to be retained in service or requires to be given compulsory retirement. The rationale given in that sense is that such an assessment is based on entire service record and there is no question of not taking into consideration the earlier old adverse entries or record of the old period. Relying upon all the aforesaid judgment in the case of ***Babu Lal Jangir (supra)*** the Apex Court has observed in paragraph 24 as under:

"24. Having taken note of the correct principles which need to be applied, we can safely conclude that the order of the High Court based solely on the judgment in Brij Mohan Singh Chopra [(1987) 2 SCC 188 : (1987) 3 ATC 496] was not correct. The High Court could not have set aside the order merely on the ground that service record pertaining to the period 1978–1990 being old and stale could not be taken into consideration at all. As per the law laid down in the aforesaid judgments, it is clear that entire service record is relevant for deciding as to whether the government servant needs to be eased out prematurely. Of course, at the same time, subsequent record is also relevant, and immediate past record, preceding the date on which decision is to be taken would be of more value, qualitatively. What is to be examined is the “overall performance” on the basis of “entire service record” to come to the conclusion as to

post has to be manned by a more efficient and dynamic person and if there is sufficient material on record to show that the employee “rendered himself a liability to the institution”, there is no occasion for the court to interfere in the exercise of its limited power of judicial review.”

9. In such view of the matter, the settled position is that for considering the case for compulsory retirement of a government servant, the entire record is required to be seen and it has also been observed that even a single entry with regard to the integrity is sufficient to compulsorily retire a person. In the counter-affidavit, it has been categorically stated that there was adverse entries against the petitioners repeatedly, and integrity was also held to be doubtful.

10. Alongwith the supplementary counter affidavit the respondents have also brought on record the screening report dated 21.4.2005 which reflects that the entire service record of the petitioner has been taken into consideration. It is further approved by the order dated. 25.5.2015 passed by this court, wherein after perusal of the original record, this court has recorded the finding, after considering the ten years of previous service of the petitioner, that his services were unsatisfactory and fine was also imposed against the petitioner.

11. In such view of the matter, this court do not find any illegality in the impugned order whereby the petitioner was compulsorily retired vide order dated 26.4.2005. The order dated 5.5.2005 has lost its efficacy because entire record has been brought on record in this proceedings.

12. For the reasons aforesaid, the writ petition is devoid of merit and is accordingly **dismissed**.