



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24938-2012 (O&M)
RESERVED ON: 11.07.2025
DATE OF PRONOUNCEMENT:15.09.2025

DR. SHIVA SHARMA

.....Petitioner

Vs

HIGH COURT OF PUNJAB AND HARYANA AND ANOTHER.

.....Respondents

CORAM : HON’BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON’BLE MR. JUSTICE SANJIV BERRY, JUDGE

Present:- Mr. S.K. Garg Narwana, Sr. Advocate (Arguing Counsel) with
Mr. Arav Gupta, Advocate for the petitioner.
Mr. Sumeet Mahajan, Sr. Advocate (Arguing Counsel) with
Ms. Shruti Singla, Advocate and
Ms. Balpreet K. Sidhu, Advocate
for respondent-High Court.
Mr. Deepak Balyan, Addl. Advocate General, Haryana.

* * * *

SHEEL NAGU, CHIEF JUSTICE

1. Challenge herein is to the order of compulsory retirement of the petitioner in public interest (Annexure P-15), passed by the Governor of the State of Haryana, on attaining the age of 58 years, on the recommendations of this High Court, by invoking the provisions contained in Rule 5.32A(C) of the Punjab Civil Services Rules, Volume-II and rule 3.26(d) of Punjab Civil Services Rules, Volume-I, Part-I, as applicable to the State of Haryana. For the purpose of adjudication of the dispute involved, it would be appropriate to delineate the relevant events in a chronological manner, as follows:-

DATES AND EVENTS

YEAR	EVENTS
11.05.1981	The petitioner is appointed as Member of the Haryana Civil



	Services (Judicial Branch) and joined as Subordinate Judge Third Class-cum-Judicial Magistrate Second Class (Present known as Civil Judge (Junior Division)).	
1981-1982 to 1986-1987	The petitioner earned the following Grades in ACRs;-	
	Year	Remarks by the High Court
	1981-82	B (Average/Satisfactory)
	1982-83	B (Average/Satisfactory)
	1983-84	B (Average/Satisfactory)
	1984-85	B (Average/Satisfactory)
	1985-86	B Plus (Good)
	1986-87	B Plus (Good)
1986-1997	The petitioner is promoted as Additional Senior Subordinate Judge and discharged his duties as such and also as Chief Judicial Magistrate and Civil Judge (Senior Division) at various stations.	
1987-1988 to 1996-1997	The petitioner earned the following Grades in ACRs;-	
	Year	Remarks by the High Court
	1987-88	B Plus (Good)
	1988-89	B Plus (Good)
	1989-90	B Plus (Good)
	1990-91	B Plus (Good)
	1991-92	B Plus (Good)
	1992-93	B Plus (Good)
	1993-94	B Plus (Good)
	1994-95	B Plus (Good)
	1995-96	B Average
	1996-97	B Average
30.07.1997	The petitioner is promoted as Additional District Judge and was posted as Presiding Officer, Industrial Tribunal-cum-Labour Court Gurugram w.e.f. 30.07.1997 to 23.04.2000.	



1997-1998 to 2002-2003	The petitioner earned the following Grades in ACRs	
	Year	Remarks by the High Court
	1997-98	B Plus (Good)
	1998-99	Not recorded
	1999-2000	B Plus (Good)
	2000-2001	B Plus (Good)
	2001-2002	B Plus (Good)
	2002-2003	B Plus (Good)
07.05.2003 to 11.05.2004	The petitioner is placed Under Suspension.	
12.05.2004	The petitioner is reinstated on revocation of Suspension and the period of suspension is treated to be spent on duty.	
2004	The proposed Chargesheet to be issued against the petitioner is decided to be dropped.	
2003-2004 to 2010-2011	The petitioner earned the following Grades in ACRs:-	
	Year	Remarks by the High Court
	2003-2004	Not recorded
	2004-2005	A-Very Good
	2005-2006	B Plus (Good)
	2006-2007	B Plus (Good)
	2007-2008	A-Very Good
	2008-2009	B Plus (Good)
	2009-2010	A- Very Good
	2010-2011	C-Integrity Doubtful
2009	The petitioner is designated as District & Sessions Judge.	

2. Since the concept of compulsory retirement in public interest, also known as ‘Weeding out the dead wood’, is primarily based on the overall service



profile and performance of the Officer concerned with emphasis to the recent performance, it would be appropriate to enumerate in details the remarks (both beneficial as well as adverse) contained in the Annual Confidential Reports (ACRs) of the petitioner for the period from 2003-2004 to 2010-2011, in the following manner;-

Year	Events		
2004-2005	----- Administrative Judge for the appraisal year 2004-2005 recorded the following remarks qua the work and conduct of petitioner.		
	5	Is he an efficient Judicial Officer?	An efficient Officer but sometimes he commits serious error on account of negligence, which were brought to his notice. He is advised to be more careful.
2006-2007	---- Administrative Judge for the appraisal year 2006-2007 recorded the following remarks qua the work and conduct of petitioner.		
	7	Integrity	Though the complaints were there, yet in the absence of any material, the same were filed.
2010-2011 01.11.2010 to 31.03.2011	-----The Hon'ble Administrative Judge for the appraisal year 2010-2011 recorded the following remarks on the work and conduct of the petitioner for the period from 01.11.2010 to 31.03.2011		
	1.	Quality of Work	
	(a)	Conduct of business in Court and office	Just efficient



	(b)	Quality of judgment	Good
2.		Quantity of Work	Very Good. On an Average, the officer has earned more than 160 units per month.
3		Capacity of management, leadership, initiative, planning and decision making	Unable to Manage or lead and incapable of taking initiative.
4		Inter personal Relationship and team work	Inter Personal Relationship is not good enough. Being District Judge Head, there should be more cooperative attitude towards subordinate Officers.
5		State of Health	Very Good
6		Period under observation of the Administrative Judge.	01.11.2010 to 31.03.2011
7		Integrity	There are number of complaints against the officer by the members of the Bar and public, but none is substantiated by any evidence. General reputation amongst the bar, public and officers fraternity is not good. Needs a close watch. Seems to be doubtful.
8		General assessment	The Officer is District Head. He is supposed to be role model for



		regarding strength and shortcomings:	all the judicial officers posted in the District. However. He is enjoying one of the worst possible reputation. There were rampant complaints touching propriety and integrity of Officer. A close watch is necessary. His integrity cannot be termed up to the mark. It is not beyond doubt. While discharging his duty as Head of the District Judiciary, the Officer has been giving remarks for the working of Subordinate Judicial Officers in a discriminatory manner. The Officer who had earned almost equivalent or more units have been given remarks better than the other Officers, who have earned similar units.
	9.	Grading	C-Integrity Doubtful.
	Part-II	Remarks of the Administrative Judge.	-----

2.1 Against the aforesaid adverse remarks for the appraisal year 2010-2011, the petitioner preferred a representation dated 27.05.2011, which was placed before the concerned Committee and the same was rejected on 06.07.2011. The Full Court in its meeting held on 05.08.2011, concurred with the remarks of the concerned Committee and maintained the grading in the ACR of



2010-2011 as 'C-Doubtful Integrity' and the petitioner was duly informed, in this regard, vide letter dated 17.08.2011.

2.2 From the aforesaid profile of the petitioner right from his initial appointment till the appraisal year 2010-2011, it is obvious that during the initial six years, he has earned ACR gradings of either Average or Good, but thereafter, except for one or two years, petitioner has always been graded as 'Good' or 'Very Good' right from 1987-1988 to 2009-2010.

2.3 More so, the petitioner was found suitable for promotion from the post of Civil Judge (Senior Division) to the post of Additional District & Sessions Judge in the month of July 1997, which renders all the earlier adverse remarks, if any, prior to such promotion insignificant and inconsequential.

2.4 Further, the petitioner was designated as District & Sessions Judge in 2009, which further reinforces the contention that nothing adverse worth the mention is found, prior to such designation. It is well known that designation of District & Sessions Judge from the post of Additional District & Sessions Judge involves not only scrutiny of ACRs but also interaction of the concerned Officer with the Selection Committee comprising of Senior Sitting Judges of this Court. Thus, whatever sting or adverse effect remained in the ACRs, prior to his designation as District & Sessions Judge in the year 2009, became redundant.

2.5 Pertinently, the petitioner had been placed Under Suspension on 07.05.2003 but was later reinstated on 12.05.2004, and thereafter, the contemplated disciplinary proceedings were dropped by the High Court in 2004-2005.

2.6 Now, the only adverse entry which remains to be dealt with, is that of 2010-2011 where the petitioner was graded ('C with doubtful integrity'). In



this regard, it is seen that the period for which this adverse entry was made is from 01.11.2010 to 31.03.2011 i.e. five months. It is difficult to comprehend that an Officer who had no adverse remarks in his entire career spanning 30 years, behaved and conducted himself in such a manner, compelling the concerned Administrative Judge to categorise the petitioner from 'Very Good' in 2009-10, down to 'C' (doubtful integrity).

2.7 The remarks in regard to 'Doubtful Integrity' are that the petitioner enjoys one of the worst possible reputation. There are rampant complaints touching integrity of the Officer and the petitioner indulges in discrimination while recording remarks in the ACRs of Subordinate Judicial Officer.

2.8 However, a closer scrutiny of the ACRs for the period from 01.11.2010 to 31.03.2011, reveal that petitioner is caregorised as 'Just efficient', Quality of Judgment as 'Good', Quantity of Work as 'Very Good' based on having earned 160 units per month but unable to manage or lead and incapable to initiate. In interpersonal relationship also petitioner was categorized as not good enough and lacking cooperation and coordination of the Subordinate Officer.

2.9 The written statement filed by way of an affidavit on behalf of respondent no.1/High Court, stating that Hon'ble Mr. Justice Vinod Kumar Sharma was designated as the Administrative Judge of Sessions Division, Sirsa, for the year 2010-2011. However, since Hon'ble Mr. Justice Vinod Kumar Sharma was transferred to Madras High Court at Chennai in the midst of the financial year 2010-2011, he did not record any remarks in the ACR of the petitioner, for the appraisal year 2010-2011. Later on, the then Chief Justice designated Hon'ble Mr. Justice Alok Singh as the Administrative Judge of



Sessions Division, Sirsa, w.e.f. 01.11.2010. Thereafter, said Hon'ble Mr. Justice Alok Singh carried out inspection of the Sessions Division, Sirsa, and recorded the aforesaid adverse remarks as regards 'Integrity' of the petitioner.

2.10 In the absence of any adverse remarks being penned down by the erstwhile, Administrative Judge, Hon'ble Mr. Justice Vinod Kumar Sharma for the period of seven months w.e.f. 01.04.2010 to 31.10.2010, the nature of the remarks cannot be presumed, in respect of that period. Though there are few adverse remarks recorded in earlier part of the career of petitioner i.e. for the year 1989 to 1990, 1993 to 1994 and 1994 to 1995, but same were washed out and lost their sting upon promotion of the petitioner from Civil Judge (Senior Division) to the post of Additional District & Sessions Judge in the month of July 1997. More so, the suspension period from 07.05.2003 to 11.05.2004 was revoked and subsequently the contemplated disciplinary proceedings were dropped in the year 2004-2005, and the period of suspension was treated to be spent on duty. Thus, the adverse effect of suspension and the contemplated disciplinary proceedings became non-existent for all purposes. More so, the petitioner was designated as District & Sessions Judge in the year 2009 after a thorough scrutiny of his record, conduct, behaviour and performance. Thus any adverse material pertaining to the earlier years of service career of petitioner prior to promotions and designation, became inconsequential.

2.11 In the last appraisal year i.e. 2009-2010, the petitioner earned the grade of 'Very Good' in his ACR. Thereafter, in the final year of his career i.e. the appraisal year 2010-2011, no remarks could be penned down by the then Administrative Judge of Sessions Division, Sirsa in the first seven months from

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April 2010 to October,2010, on account of his transfer in the Madras High Court at Chennai.

2.12 In the remaining five months of the appraisal year 2010-2011 i.e. from 01.11.2010 to 31.03.2011, the new Administrative Judge, Hon'ble Mr. Justice Alok Singh, carried out inspection and recorded adverse remarks. He found that an Officer who had rendered 'Good' or 'Very Good' performance in his entire 30 years of service, suddenly became an officer of worst reputation with his 'Integrity Doubtful' who exercises discriminatory tactics while recording remarks in the ACR's of Subordinate Judicial Officers. All these adverse remarks written in the last five months of the appraisal year 2010-2011 were not based on any written complaints or verified material or any overt or covert inquiry, but on unsubstantiated material/evidence/allegations.

2.13 The least which the then Administrative Judge ought to have done, is to conduct a covert vigilance inquiry, asking for the response of the petitioner. If such an inquiry would have revealed, some prima facie material of petitioner having committed misconduct, then proper course would have been to initiate a regular inquiry, after affording due and sufficient opportunity to the petitioner to defend himself. None of these steps were adopted. Instead, the short-cut method was adopted by declaring the petitioner to be unfit to be retained in service at the age of 58 years, by way of compulsory retirement in public interest.

3. No doubt an order of compulsory retirement in public interest is not a punishment, but the same has to be issued only after due application of mind, to the relevant material/evidence available on record. While assessing an officer to be entitled or not, the concerned Competent Authority needs to scrutinise the entire service records of the officer right from the initial appointment upto the

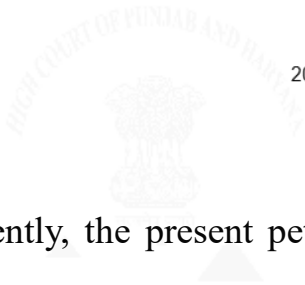


last appraisal year, with more emphasis on the performance in the last few years of service. It is well settled principle of service jurisprudence that while applying its mind on the question of compulsory retirement in public interest, the Authority needs to ensure that only relevant material necessary for taking the crucial decision is considered, while the irrelevant material is discarded.

3.1 In the present case, it is obvious from the record that the irrelevant material of earlier adverse remarks recorded in some of the ACRs was also taken into account, which had become inconsequential, on account of the petitioner having been subsequently promoted and designation through a selection process. The irrelevant material of the adverse remarks in the last five months of the ACR for the appraisal year 2010-2011, recorded by the then Administrative Judge, Hon'ble Mr. Justice Alok Singh were further taken into account, by ignoring the fact that an Officer who had earned 'Good' or 'Very Good' remarks throughout his entire service career of 30 years, cannot overnight become bad to the extent of rendering his 'Integrity Doubtful'. No man of ordinary prudence can take a such decision, and, therefore, the impugned decision assailed herein abhorrent to the *Wednesbury* principle. The Competent Authority in all probability did not notice the element of malafide in law, which became palpable in the present case, especially on the part of the Administrative Judge, who recorded adverse remarks in the last five months of the ACR of petitioner, for the appraisal year 2010-2011.

4. In the conspectus of above discussion, we have no hesitation in holding that the impugned order dated 05.09.2011 (Annexure P-15) of Compulsory Retirement of the petitioner in public interest at the age of 58 years is vitiated by illegality, impropriety and mala fide in law.

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5. Consequently, the present petition stands allowed to the following extent:-

- i. The order dated 05.09.2011 of Compulsory Retirement of the petitioner in public interest (Annexure P-15) passed by the Governor in the State of Haryana, on the recommendations of this High Court, under Rule 5.32A(C) of the Punjab Civil Services Rules, Volume-II and rule 3.26 (d) of Punjab Civil Services Rules, Volume-I, Part-I as applicable to the State of Haryana, is set-aside.
- ii. The petitioner is further entitled to all consequential benefits including notional seniority, pay fixation. Fixation of pension, payment of arrears of pension, except payment of arrears of salary for the period, he remained out of service.

6. All pending Civil Miscellaneous application(s), if any, also stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(SANJIV BERRY)
JUDGE

15.09.2025
Kamal Gandhi

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No