



2026:CGHC:20837-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 363 of 2026

1 - Food Corporation Of India Through The Chairman The Chairman Cum- Managing Director, Head Quarter 16-20, Barakhamba Road, New Delhi- 110001.

2 - Review Committee Through The Chairman Cum- Managing Director, Food Corporation Of India, 16-20, Barakhamba Road, New Delhi -110001.

3 - Representation Committee Through The Chairman Cum- Managing Director, Food Corporation Of India, 16-20, Barakhamba Road, New Delhi - 110001.

4 - General Manager (Region) Food Corporation Of India, Vidhan Sabha Road, Kapa Raipur, District Raipur (C.G.) 492005

... Appellants

versus

Kamal Kishor Shondilya S/o Late Balaram Shondilya Aged About 50 Years R/o Bungalow No.31, Dolphin Plaza, Daldalseoni Road, Mowa, Raipur Dist. Raipur (C.G.)492014.

---- Respondents

(Cause title taken from Case Information System)

For Appellants	:	Mr. R.S. Patel, Advocate
For Respondent/State	:	Mr. Sudeep Johri, Advocate



Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, C.J.

05/05/2026

1. This writ appeal has been preferred by the appellants—Food Corporation of India and its authorities under Section 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006, assailing the legality, validity and correctness of the judgment and order dated 28.02.2026 passed by the learned Single Judge in W.P.(S) No. 9001 of 2023, whereby the writ petition filed by the respondent herein came to be allowed. By the impugned order, the learned Single Judge has quashed the order dated 01.05.2023 (Annexure P/1), whereby the respondent/writ petitioner was prematurely/compulsorily retired from service in exercise of powers under Regulation 22(2) of the Food Corporation of India (Staff) Regulations, 1971, as well as the consequential rejection order dated 06.07.2023 (Annexure P/2), and has directed reinstatement of the respondent in service without back wages. The appellants contend that the learned Single Judge has erred both on facts and in law in interfering with an order of compulsory retirement, which is based on subjective satisfaction of the competent authority and is not amenable to judicial review except on limited grounds.
2. The facts of the case in brief are that the respondent/writ petitioner was appointed as Manager (Trainee) in the year 2005 and was subsequently promoted to the post of Assistant General Manager in



the Food Corporation of India. During his service tenure, certain complaints pertaining to irregularities in procurement operations were received, which led to initiation of departmental proceedings and vigilance scrutiny. Although in certain enquiries the respondent was exonerated, penalties were also imposed in some proceedings, including reduction in pay. The Review Committee, upon consideration of the service record and vigilance profile of the respondent, formed an opinion that his integrity was doubtful and recommended his compulsory retirement in public interest. Acting upon such recommendation, the competent authority passed the order dated 01.05.2023 retiring the respondent from service with effect from 31.05.2023, along with payment of three months' salary in lieu of notice.

Aggrieved by the said order, the respondent filed W.P.(S) No. 9001 of 2023 primarily on the grounds that he had not attained the age of 50 years on the date of issuance of the order, that his service record was unblemished with consistently good APARs, and that the action of the authorities was arbitrary and mala fide. The learned Single Judge, after considering the material on record, allowed the writ petition holding that the respondent had not completed 50 years of age on the date of issuance of the order and that the decision of compulsory retirement was not supported by relevant material, thereby quashing the impugned orders and directing reinstatement.

3. Learned counsel for the appellants submits that the order of compulsory retirement has been passed strictly in accordance with



Regulation 22(2) of the FCI Staff Regulations, 1971, which confers an absolute right upon the employer to retire an employee in public interest upon attaining the prescribed age. It is contended that the learned Single Judge has erred in considering the date of issuance of the order instead of the effective date, i.e., 31.05.2023, on which date the respondent had already attained the age of 50 years. Therefore, the condition precedent under the Regulations stood duly satisfied and the finding recorded by the learned Single Judge to the contrary is legally unsustainable.

It is further contended that compulsory retirement is not a punishment and is based on the subjective satisfaction of the employer, formed on the basis of entire service record, including vigilance inputs and disciplinary history. The scope of judicial review in such matters is extremely limited and the Court cannot sit in appeal over the decision of the competent authority. It is submitted that the learned Single Judge has exceeded the permissible limits of judicial review by re-appreciating the service record and substituting his own opinion for that of the employer. Hence, the impugned judgment warrants interference by this Court.

4. Per contra, learned counsel for the respondent supports the impugned judgment and submits that the order of compulsory retirement is ex facie illegal as the respondent had not attained the age of 50 years on the date of issuance of the order, which is a mandatory condition under Regulation 22(2) and Fundamental Rule 56(j). It is argued that the eligibility condition must be satisfied on the date when the power is



exercised and not on a future date when the order is to take effect. Therefore, the very foundation of the impugned action is vitiated.

It is further submitted that the respondent had an unblemished service record with consistently “Very Good” and “Outstanding” APAR gradings, and no material existed to conclude that he had become ‘deadwood’ or that his continuation in service was against public interest. The findings of the Review Committee are stated to be arbitrary and unsupported by the record, particularly in light of repeated exonerations in departmental and criminal proceedings. It is contended that the learned Single Judge has rightly interfered as the decision of compulsory retirement was vitiated by non-application of mind and arbitrariness.

5. We have heard learned counsel for the parties and considered their rival submissions made herein above and also gone through the entire records of the case with utmost circumspection.
6. The learned Single Judge, after hearing learned counsel for the parties and perusing the material available on record, has passed the following order:-

“13. Admittedly, the date of birth of the Petitioner is 17.5.1973 and as such, on 1.5.2023, the date the impugned order of premature retirement was issued, the Petitioner had not yet completed 50 years of age. Since attaining the age of 50 years is a condition precedent for invoking the power of premature retirement under the relevant Rules and Regulations, the impugned order is legally



unsustainable on this count alone.

14. Now, the second question for consideration is whether the Petitioner can be classified as 'deadwood' for the Department. While punishment orders were previously issued against the Petitioner, it is pertinent to note that upon appeal, all such orders were modified to minor penalty of 'Censure'. Furthermore, in the instant matter, the Enquiry Officer initially exonerated the Petitioner of all the charges and even in the subsequent enquiry, the Petitioner was found to be innocent and duly exonerated. Furthermore, even a CBI enquiry directed against the Petitioner culminated in an exoneration. Despite this, the respondents proceeded to pass a punishment order, which the Petitioner subsequently challenged before the Appellate Authority. During the pendency of the departmental appeal, the impugned premature/compulsory retirement order was passed on 1.5.2023. The Petitioner alleges that Respondent No.1 has acted with malafide intent and personal bias. This is evident from the fact that when after the initial enquiry, the Petitioner was not found guilty, Respondent No.1 directed a re-enquiry. When that re- enquiry similarly failed to establish guilt, a CBI investigation was initiated. However, in the CBI enquiry also, when nothing was found, the concerned respondent authority, without there being any case, proceeded to pass a punishment order against the Petitioner. The said order is presently the subject of an appeal before the Appellate Authority, which is pending final adjudication.



15. An overall view of these facts shows that the respondents are intent on penalizing the Petitioner and ensuring his removal from service by any means necessary. It is evident that the respondents, anticipating that the pending punishment might be set-aside by the Appellate Authority, acted with undue haste and in a preemptive manner. Instead of awaiting the outcome of the statutory appeal, the respondents chose to issue the order of premature retirement. It emerges from the record that the service of the Petitioner has been consistently meritorious. His Annual Performance Appraisal Reports reflect 'Outstanding', 'Very Good' and 'Good' remarks. When the service record is viewed cumulatively, it is evident that the the Petitioner does not, by any stretch of imagination, constitute 'deadwood' for the Department whose removal would be in the public interest.

21. The settled principle governing compulsory retirement is that such an order must be necessitated by the public interest. To invoke this power, the concerned authority must establish that the delinquent's performance has deteriorated to the extent that his continued service is no longer beneficial to the administration effectively rendering him 'deadwood' for the Department. This is the sole criteria upon which an employee may be prematurely retired before reaching the prescribed age of superannuation.

22. Considering the facts and circumstances of the case and in light of the principles laid down in the aforementioned judgments, this Court is of



the view that the requisite subjective satisfaction was not recorded by the respondent authorities before passing the order of compulsory retirement. On the contrary, the impugned order was passed in a hurry and haste manner, dehors the settled principles of law. Such an order, actuated by the whims and caprices of the officers concerned, is legally unsustainable and cannot be permitted to operate.

23. For the foregoing, reasons, the impugned order dated 1.5.2023 (Annexure P/1) and the rejection order (representation) dated 6.7.2023 (Annexure P/2) are hereby quashed/set-aside. The Respondent Authorities are directed to reinstate the Petitioner in service with immediate effect, however, such reinstatement shall be without back wages.

24. With the aforesaid observations/directions, the Petition is disposed of.”

7. The primary issue which arises for determination is whether the respondent had attained the age of 50 years so as to enable the appellants to invoke the power of compulsory retirement under Regulation 22(2) of the Regulations, 1971. Admittedly, the date of birth of the respondent is 17.05.1973 and the impugned order was issued on 01.05.2023. On the said date, the respondent had not completed 50 years of age. The contention of the appellants that the effective date of retirement i.e. 31.05.2023 should be considered cannot be accepted, as the statutory requirement clearly mandates attainment of the prescribed age at the time of exercise of power. Thus, the learned



Single Judge has rightly held that the condition precedent was not satisfied.

8. Even otherwise, on merits, we find that the conclusion drawn by the learned Single Judge does not suffer from any perversity. The material on record indicates that the respondent had consistently good service record and there is no cogent material to substantiate the conclusion that he had become 'deadwood' or that his continuation in service was detrimental to public interest. The exercise of power of compulsory retirement must be based on relevant material and cannot be arbitrary or capricious. In the present case, the formation of opinion by the authorities does not appear to be founded on a proper evaluation of the entire service record.
9. In view of the above analysis, we are of the considered opinion that the learned Single Judge has not committed any error warranting interference in intra-court appeal. The impugned judgment is well reasoned and in consonance with settled principles governing compulsory retirement.
10. Accordingly, the writ appeal, being devoid of merits, is hereby **dismissed**. No order as to costs.

Sd/-
(**Ravindra Kumar Agrawal**)
Judge

Sd/-
(**Ramesh Sinha**)
Chief Justice

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