

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN**  
**BENCH AT JAIPUR**

D.B. Special Appeal Writ No. 88/2010

Rajasthan State Road Transport Corporation Through Its  
Chairman, Parivahan Marg, Jaipur

----Appellant

Versus

Vijay Singh S/o Shri Jagdish Prasad Since Dead Through His  
Legal Representatives -

----Respondent

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| For Appellant(s)  | : | Ms. Manjit Kaur |
| For Respondent(s) | : | Mr. Ajit Maloo  |

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**HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR**  
**HON'BLE MR. JUSTICE ANAND SHARMA**  
**Order**

**30/04/2025**

**(Per, Shree Chandrashekhar, J):**

This Special Appeal is pending since last 15 years.

2. The Rajasthan State Road Transport Corporation has filed this Special Appeal against order dated 30<sup>th</sup> July 2009 passed in S.B. Civil Writ Petition No.5942/1992.

3. By the order dated 30<sup>th</sup> July 2009, the writ Court interfered with the order of compulsory retirement passed on 27<sup>th</sup> June 1992 against the employee Vijay Singh.

4. Without looking into the facts of the case, this Special Appeal is liable to be dismissed for the simple reason that there is a finding recorded by the writ Court that the service records of the employee regarding his overall performance during his service tenure was not placed on record in spite of opportunities granted to the employee. Just to indicate, the employee Vijay Singh was working on the post of Senior Foreman. He was

served the order of compulsory retirement dated 27<sup>th</sup> June 1992 which was in the nature of pre-mature retirement from service and not by the measure of punishment inflicted upon him.

5. Considering the stand taken by the employee that he had unblemished service record, an opportunity was granted to the Rajasthan State Road Transport Corporation to produce the service records showing his overall performance. It was in that context that the writ Court passed the following order:

*"(6) As regards the over all performance, opportunities were granted to the respondents to place the entire record before the Court but the record has not been shown.*

*(7) In the service jurisprudence, the charge sheet is never treated as adverse material. The other adverse material which has been shown is two warnings. No reasonable person would form the requisite opinion on the given adverse material, therefore, the order of compulsory retirement is arbitrary and perverse. Therefore, the present case is covered by aforesaid principle (iv) of Baikuntha Nath Das as the order of compulsory retirement is arbitrary as well as perverse.*

*(8) In the result, the writ petition is allowed, the impugned order of compulsory retirement 27.6.1992 (Anx.2) is quashed and set aside and the petitioner is also entitled for consequential benefit. If, during the pendency of writ petition, the petitioner has already attained the age of superannuation, then he will be deemed to have been reinstated in service and retired on attaining the age of superannuation and in such a situation, he will be entitled to revised pension accordingly, with all consequential benefits. Three months' time is given to the respondents for compliance of this order."*

6. In **Baikuntha Nath Das and another V. Chief District Medical Officer, Baripada and another (1992(2) SLR 2)**

the Hon'ble Supreme Court held 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 a perverse order.(emphasis supplied)*

*(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 averse. 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 29 to 31 above."*

7. In the present proceedings, the appellant-Transport Corporation has endeavored to controvert the stand taken by the writ petitioner that he had unblemished service by producing his service records; the same has been brought on record through application dated 14<sup>th</sup> December 2010.

8. In this application, the appellant-Transport Corporation stated that a Screening Committee was constituted which inspected the service records of several employees and rendered an opinion that 14 employees including the writ petitioner were required to be compulsorily retired from service. The appellant-Transport corporation has stated thus:

*"4. That a preliminary Screening Committee was constituted by the appellant corporation comprising 3 officers, Managing Director as Chairman and the said committee inspected the whole record of respondent-petitioner as well as other officers who had completed their 25 years of services and 50 years of service and after going through their personal file, departmental inquiry records, general reputation and their performances, ACRs etc and after having satisfied, the committee advised to compulsorily retired the petitioner and some other officers of the appellant corporation. Thereafter a meeting of screening committee constituted by the Board of the appellant corporation vide resolution No. 45/90 dated 1.8.1990 was held under the chairmanship of the then Chairman of Appellant Corporation comprising other three high level officers and the committee perused the record of the officers in depth who had completed their 25 years of service and 50 years of age including the respondent-petitioner and recommended the appointing authorities to compulsorily retired the respondent-petitioner and some other officers from the services of corporation under regulation 57 (a) (i) of RSRTC corporation employees service regulations 1965. The screening committee has also considered the recommendations of the preliminary screening committee dated 6.5.1992 and had very carefully go through the personal record, general reputation, integrity and ACRs of the officers and only thereafter made recommendations to compulsorily retire the respondent-petitioner. For ready reference, the photo stat copies of the proceedings of preliminary screening committee held on 6.5.1992 and screening committee held on 26.6.1992 along with the details of pending departmental proceedings and ACRs are annexed and marked as **ANNEXURE A/1 & ANNEXURE A/2** respectively.*

5. That the service record of the respondent-petitioner was handed over to the counsel for appellant corporation in writ petition, who later on elevated to the Hon'ble Bench and the said record has been misplaced. However, a bare perusal of the proceedings drawn by the aforesaid screening committees and the details annexed therein clearly reveal that the said committees made complete analysis of the entire service record of the respondent-petitioner and after examining each and every aspect had recommended to retire the petitioner from service compulsorily and then only the order dated 27.6.1992 was issued. At the time of compulsory retirement of respondent-petitioner seven charge sheets were pending against him and he was already punished on two occasions for the misconduct/irregularities committed by him."

9. The order of compulsory retirement dated 27<sup>th</sup> June 1992 was passed under Regulation 57 (a)(i) of the Rajasthan State Road Transport Corporation Employees Service Regulations, 1965 (for short 'the Regulations of 1965') which reads as under:

"(a)The date of compulsory retirement of an employee other than an employee belonging to inferior service shall be the date on which he attains the age of 58 years\*. He may be retained in service after the date of compulsory retirement which the sanction of the competent authority in interest of service of the Corporation and for reasons to be recorded in writing, but shall not be retained after the age of 60 years in any case. A Corporation servant under suspension shall also retire on reaching the date of compulsory retirement. The competent authority shall, however, continue to have jurisdiction on such employee to enquire into the charges against him and pass final order.

(i) Notwithstanding anything contained in this regulation, the Corporation may, at any time, after a Corporation employee has completed 15 years qualifying service or has attained the age of 50 years whichever is earlier, after having been satisfied that the concerned employee 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 Corpn. employee to retire in public interest. In case of such retirement the Corporation employee shall be entitled to retiring pension."

10. It is trite law that the object of compulsory retirement is to weed out the deadwood in order to maintain the high standard of efficiency. For exercising such power, it is necessary that there are materials and grounds available on record on the basis of which the employer has recorded its subjective satisfaction. May be, it is not permissible for the Court to ascertain whether there existed sufficient materials but the writ Court shall be within its powers to examine if the subjective satisfaction of the employer is based on irrelevant materials. In **Nand Kumar Verma Vs. State of Jharkhand and Others, (2012) 3 SCC 580**, the Hon'ble Supreme Court observed as under:

*"32. It is also well settled that the formation of opinion for compulsory retirement is based on the subjective satisfaction of the concerned authority 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 ACR's. There appears to be some discrepancy. We say so for the reason that the appellant has produced the copies of the ACR's 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. The High Court has taken the decision on the basis of selective service record which includes the summarized ACR's, as quoted in the impugned judgment, for the selected years. The ACR for the initial years: 1975-76 and 1976-77 remarks him as capable of improvement against quality of work, the ACR's for the years: 1982-83, 1983-84 points that his work is unsatisfactory, the ACR's for the year: 1984-85, 1987-88 remark his work performance as unsatisfactory with bad reputation and quarrelsome attitude, and the ACR for the later years: 1993-94 & 1994-95 refers to some private complaints and remark that his powers were divested by the High Court and the ACR's for the recent years: 1997-*

98 & 1998-99 points that no defect in judicial work but disposal of cases is poor. Whereas, the appellant furnished certain Service records which includes: the ACR recorded by 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 1997-98 assessed him as an officer of average merit, maintaining good relationship with bar, staffs and colleagues but poor disposal, and the ACR prepared by the District and Sessions Judge, Muzaffarpur for the year 1998-99 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. 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. In *Swami Saran Saksena v. State of U.P.*, (1980) 1 SCC 12, 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:

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. The writ Court referred to the adverse materials on the basis of which the order of compulsory retirement dated 27<sup>th</sup> June 1992 was passed. As indicated in the application dated 14<sup>th</sup> December 2010, the writ petitioner had suffered two punishments which were the order of warning and 7 charge memos were pending against him. Besides according our concurrence to the finding of the writ Court that such adverse materials could not have formed the basis for the passing of the order of compulsory retirement, we would indicate that an order of punishment passed in the departmental enquiry could not have been the basis for exercising the power under Regulation 57 (a)(i) of the Regulations of 1965. In cases of the pending charge memos, the Transport Corporation was required to proceed against the writ petitioner in the departmental enquiry but it could not have passed the order of compulsory retirement on the ground that 7 charge memos were issued to the writ petitioner.

12. In view thereof, we are not inclined to entertain this Special Appeal and that is dismissed. Needless to indicate that the consequences shall follow.

(ANAND SHARMA),J

(SHREE CHANDRASHEKHAR),J