

(2003) 06 GUJ CK 0036
In the Gujarat High Court

Case No : Special Civil Application No. 8001 of 1990

Ambalal Ramjibhai Soni

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 11-06-2003

Acts Referred:

Bombay Civil Services Rules, 1959 — Rule 161(1)

Citation : (2003) 06 GUJ CK 0036

Hon'ble Judges : J.N. Bhatt, Acting C.J.

Bench : Single Bench

Advocate : Y.N. Oza, for the Appellant; Mita Panchal, AGP, for the Respondent

Final Decision : Dismissed

Judgement

J.N. Bhatt, Acting C.J.

1. The only question which requires consideration and adjudication in this writ petition under Article 226 of the Constitution of India is whether the

impugned order of the respondent-authority of compulsory retirement of the petitioner passed no 24.4.1990 is in any way unjust, unreasonable or

vulnerable requiring interference for the purpose of quashing the same and for reinstating the petitioner in service.

2. The respondent-authority passed the impugned order on 24.4.90 in accordance with clause (aa)(i)(1) of Rule 161(1) of the Bombay Civil

Services Rules, 1950, (hereinafter referred to as ""the Rules""), and as amended from time to time, prematurely retiring the petitioner who was, at the

relevant time, working as Executive Engineer (Civil), Narmada Project Planning and Design Circle, Unit-E, Gandhinagar, under the Superintending

Engineer, Narmada Project Planning and Design Circle, Gandhinagar. The petitioner was ordered to compulsorily retire from Government services

forthwith in the interest of public service by giving him three months' notice pay and allowances in lieu of the notice period as per the provisions of

clause (aa)(i) of the Rules, under the order dated 24th April, 1990, which is under challenge in this writ petition.

3. The compulsory retirement, as such, is not punitive. The Rules provide for review of such cases for continuance in service beyond certain age of

the delinquent. In the case of the petitioner, the review committee examined his case, and after consideration of all the relevant facts and

circumstances and the confidential reports of the petitioner and also the overall performance of the petitioner during the course of his service, the

Committee found that there were adverse entries of considerable serious nature and which were put in the confidential report right from the year

1971, 1972, 1973, 1974-75, 1975-76, 1976-77 and 1977-78. The petitioner had also earned some corrective remarks in the confidential reports

for the period from 21.10.1985 to 31.3.86, 1986-87 and 1987-88. The adverse remarks were also made in the confidential reports regarding his

integrity for the period 1.1.73 to 27.2.73, 1975-76 and 1976-77. Most of the adverse entries remained unchallenged as no representation came to

be made by the petitioner. The performance of the petitioner was not satisfactory as reflected also from the confidential reports. These facts are

amply borne out from the affidavit-in-reply filed on behalf of the respondents by the Under Secretary (Services), Narmada and Water Resources

Department, Government of Gujarat, Sachivalaya, Gandhinagar.

4. The ultimate design of review at the age of 50-55 in the service is to see as to whether the record of the employee is satisfactory or not and

whether the continued services of such employee will be helpful and useful and productive in the administration or not. The review is provided with

a view to chop off the dead wood or in other words, some employees who have either unsatisfactory record or who have been found motiveless

and without any enthusiasm, and therefore, considering the overall performance of the service record and the entries in the confidential reports, the

competent authority is empowered to cut short the period of service of a delinquent by passing the order of compulsory retirement, and it is an

important exercise. After having taken into consideration the facts and circumstances emerging from the record of the present case, and the entire

service record of the petitioner, coupled with the adverse entries, this Court has no hesitating in finding that the impugned order of directing the petitioner to compulsorily retire by the review committee, by no stretch of imagination, can be said to be in any way unjust, unreasonable or perverse, requiring interference of this Court in discharge of this extra-ordinary, plenary, equitable and discretionary jurisdiction under Article 226 of the Constitution of India.

5. In view of the above, the only legal fate this petition must meet with is rejection. Thus, the petition is rejected. Rule is discharged. The parties are left to bear their own costs.