

(2025) 12 UK CK 0034

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1197 Of 2021

Ranvir Singh Chauhan

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 01-12-2025

Acts Referred:

Citation : (2025) 12 UK CK 0034

Hon'ble Judges : Ravindra Maithani, J;Alok Mahra, J

Bench : Division Bench

Advocate : V.B.S. Negi, Dinesh Gahatori, K.N. Joshi

Final Decision : Dismissed

Judgement

Alok Mahra, J

1. The petitioner states that he initially joined service as a Stenographer in the Revenue Department on 07.11.1992. He was promoted to Senior Personal Assistant on 22.03.2016, thereafter to Personal Officer on 11.09.2019, and subsequently to the post of Chief Personal Officer on 02.12.2020 in the office of the District Magistrate, Haridwar. It is pleaded that his Annual Confidential Reports (ACRs) from 1992-93 to 2015-16 were all "Excellent". The ACRs for the years 2016-17, 2017-18, and 2018-19 were not available with the District Magistrate as the petitioner was then posted in the Camp Office, Dehradun, office of District Magistrate, Dehradun and the office of District Magistrate, Uttarkashi. It is further submitted that no departmental inquiry was ever initiated or pending against him.

2. By means of present petition, petitioner has sought following reliefs:

(i) Issue a writ in the nature of certiorari calling for record and quash G.O./ Guidelines dated 20.02.2002 (Annexure 1) and the order dated 17.06.2021 (Annexure No.2) passed by Commissioner Garhwal Region.

(ii) Issue a writ, order or direction in the nature of mandamus directing the

respondent authorities to permit the petitioner to work as Chief Personal Officer, Haridwar otherwise the petitioner will suffer irreparable loss and injury which cannot be compensated in terms of money.

5. The petitioner has challenged the Government Order/Guidelines dated 20.02.2002, which prescribe the constitution of a Screening Committee for considering cases of compulsory retirement. Under these guidelines, in cases where the appointing authority is other than the Hon'ble Governor, the Screening Committee is to be chaired by the appointing authority, with two senior officers nominated by the appointing authority as its members.

6. The petitioner's ground of challenge is that Rule 56 of the Financial Handbook, Vol. II-IV, empowers the appointing authority to compulsorily retire a government servant who has attained the age of 50 years or more, by issuing a three-months' prior notice, without assigning reasons. According to the petitioner, the Government Order of 20.02.2002 impermissibly alters this scheme.

7. Learned Senior Counsel for the petitioner would submit that the Guidelines/G.O. dated 20.02.2002 is legally unsustainable because it make the appointing authority the Chairperson of the Screening Committee, and the same authority is thereafter required to pass the order of compulsory retirement based on the Committee's recommendation. This, it is urged, violates principles of natural justice and fairness, as the appointing authority cannot be expected to objectively assess a report of a Committee that he himself presides over. It is further contended that Clause K(1) of the Guidelines/G.O. Dated 20.02.2002 effectively requires the appointing authority to judge his own recommendation, which is impermissible.

8. Learned senior counsel further argues that Rule 56 of the Financial Handbook requires the appointing authority to pass any order of compulsory retirement. Therefore, to maintain fairness, neutrality, and transparency, the Screening Committee should not be headed by the appointing authority. It is submitted that if the appointing authority itself presides over the Committee, the assessment becomes biased, as the authority may already have preconceived views about the employee. In support of this argument, reliance is placed on the judgment in Kashi Ram Ahirwar v. State of U.P., 2001 ALJ 1655, where the Hon'ble Allahabad High Court held that a person who has recorded adverse entries against an employee should not chair the Screening Committee. The Court observed that allowing such a person to lead the committee undermines fairness and violates the principles of natural justice, because the officer's prior assessment may influence the decision on compulsory retirement.

9. It is also argued that the Government's own notification regarding compulsory retirement stipulates that if an employee has been promoted despite any adverse entry, such adverse material should not be used against him thereafter. Therefore, as the appointing authority acts both as Chairperson of the Screening Committee and the final decision-maker, he cannot be expected to take an

independent view on the Committee's recommendations.

10. Learned senior counsel for the petitioner placed reliance on the judgment of the Hon'ble Supreme Court in *Mohd. Yunus Khan vs. State of U.P. & Ors.*, (2010) 10 SCC 539, wherein the disciplinary proceedings were held vitiated because the Commandant, who initiated the charge-sheet, also appeared as a witness in the enquiry, accepted the enquiry report, and finally imposed the punishment of dismissal. The Supreme Court held that this amounted to a clear violation of the cardinal principle *nemo debet esse judex in propria causa* (no one can be a judge in his own cause). The Court reiterated that even domestic enquiries must strictly adhere to the principles of natural justice, and that the Commandant's dual role as complainant, witness, and adjudicating authority created a reasonable apprehension of bias, rendering the entire proceedings null and void.

11. Learned senior counsel further relied upon the case of *Nand Kumar Verma vs. State of Jharkhand & Others*, (2012) 3 SCC 580, wherein the Supreme Court held that once the disciplinary authority had accepted the explanation of the delinquent and closed the matter, reopening a fresh enquiry on the same charges was impermissible and violated natural justice. The Court also held that the High Court had wrongly relied upon selective and stale adverse ACR entries while ignoring the favourable ones, and that there was no relevant material to justify compulsory retirement. The action was found punitive rather than protective of public interest.

12. He also relied upon the case of *State of Gujarat vs. Umedbhai M. Patel*, (2001) 3 SCC 314, where the Supreme Court quashed an order of compulsory retirement imposed on an Executive Engineer who was under suspension. The Court held that compulsory retirement cannot be used as a substitute for disciplinary action and that the entire service record must be examined. Since there were no adverse entries and the disciplinary proceedings were incomplete, the order was held punitive and invalid, and the employee was directed to be paid all dues.

13. Learned counsel for the petitioner further relied upon the judgment of the Delhi High Court in *Ajay Kumar Sharma v. South Delhi Municipal Corporation & Another*, 2025 SCC OnLine Del 3864, wherein the order of compulsory retirement was quashed as being unreasoned and based on extraneous considerations. He submitted that even assuming certain warnings may have been issued in the distant past, these stood effectively wiped out, as the petitioner received three promotions during his service, the last being in 2020. This clearly demonstrated that the alleged adverse material had lost relevance. He contended that no independent or formal order of compulsory retirement was issued by respondent no. 3; instead, the Commissioner merely endorsed the recommendation of the screening committee on its report, which is illegal and unsustainable. It was also argued that the petitioner submitted a detailed representation to the Chairman, Board of Revenue, through the District Magistrate, Haridwar, challenging the impugned order dated 17.06.2021, but the same was rejected on 03.09.2021 in

a mechanical and perfunctory manner.

14. Per contra, learned State counsel would submit that the principle of *nemo debet esse iudex in propria sua causa* has no application to the petitioner's challenge to the guidelines/G.O. dated 20.02.2002. It was argued that Rule 56 of the Financial Handbook, Part II–IV, does not prescribe any mechanism or committee for assessing whether a government employee should be compulsorily retired or not. Therefore, the Government issued the Guidelines/G.O. dated 20.02.2002, and its provisions must be read harmoniously with Rule 56. According to him, the screening committee operates merely as an aid to the appointing authority. He also relied upon Mohd. Yunus Khan (*Supra*) to contend that there is no violation of natural justice in the present case. It was further submitted that the screening committee considered the petitioner's entire service record and, upon arriving at its subjective satisfaction, recommended compulsory retirement in public interest.

15. Learned State counsel would further submit that the "washed-off theory" has no application in cases of compulsory retirement. It was argued that the assessment in such cases is based on the "entire service record" of the employee, and therefore even old or adverse entries cannot be excluded from consideration. Reliance was placed on *Pyare Mohan Lal vs. State of Jharkhand*, (2010) 10 SCC 693, to contend that all entries—favourable or adverse—must be collectively evaluated to determine whether an employee is fit to remain in service.

16. Learned State counsel also placed reliance on *State of U.P. & Others vs. Vijay Kumar Jain*, (2002) 3 SCC 641, wherein the Supreme Court held that the Government possesses an absolute right to compulsorily retire an employee if their conduct becomes unbecoming of public interest or obstructs administrative efficiency. The Court emphasized that the entire service dossier, including past adverse entries, can be considered for this purpose. He further referred to *Baikuntha Nath Das vs. Chief District Medical Officer, Baripada*, (1992) 2 SCC 299, wherein the principles governing compulsory retirement were laid down, including that such an order is not a punishment and carries no stigma, and that the decision is based on the subjective satisfaction of the competent authority formed on the material available.

17. Learned State counsel would further submit that the absence of a separate formal order of compulsory retirement and the mere endorsement on the screening committee report does not constitute a substantive legal defect. According to him, this is at best a procedural irregularity which causes no prejudice to the petitioner and cannot invalidate the decision.

18. Heard learned counsel for the parties and perused the material available on record.

19. The main contention advanced by learned counsel for the petitioner is that the Guidelines/Government Order dated 20.02.2002 is contrary to the principles

of natural justice. Admittedly Rule 56 of the Financial Handbook, Part II–IV, does not contemplate the constitution of any Screening Committee, and therefore, the Government Order dated 20.02.2002 must be read conjointly with, and as an aid to, Rule 56 so that both provisions operate harmoniously. Further the appointing authority is not an appellate authority over the decision of the Screening Committee; rather, the Screening Committee itself is required to independently assess the service record of the government servant and form its own opinion as to whether compulsory retirement is necessary in public interest. The Screening Committee is required to arrive at a subjective satisfaction, based on the materials placed before it, that compulsory retirement of a government servant is warranted in public interest. The appointing authority, being the Chairperson of the Screening Committee, must independently apply its mind, in conjunction with the other members of the Committee, to assess whether the employee has become “deadwood” and thus deserves to be compulsorily retired in public interest. The Government Order dated 20.02.2002 merely prescribes the procedure to be followed and cannot override or enlarge the scope of Rule 56 of the Financial Handbook. The G.O. has, therefore, to be read harmoniously with Rule 56 so that the statutory rule prevails and the procedural guidelines remain within their permissible limits.

20. Having considered the submissions of the parties and after carefully examining Rule 56 of the Financial Handbook, Part II–IV, along with the Government Order dated 20.02.2002, this Court finds no merit in the petitioner’s contention that the Government Order violates the principles of natural justice or conflicts with the statutory scheme. Rule 56 lays down the substantive grounds and conditions under which an employee may be compulsorily retired by the appointing authority. The Rule does not forbid the creation of an internal procedure or mechanism to assist in evaluating an employee’s service record. The Government Order dated 20.02.2002 merely provides such a mechanism by constituting a Screening Committee to promote uniform, consistent, and objective scrutiny of service records. This Committee does not override or modify Rule 56, nor does it introduce anything contrary to the Rule.

21. In view of the above, this Court is satisfied that the Government Order dated 20.02.2002 neither dilutes nor expands the statutory power conferred under Rule 56. It only supplements the Rule by laying down procedural guidelines intended to ensure fairness, transparency, and uniformity in the decision-making process. There is, therefore, no breach of natural justice and no inconsistency between the Government Order and Rule 56. The challenge to the validity of the Government Order dated 20.02.2002 is thus without substance and is rejected.

22. This Court has carefully examined the order dated 03.09.2021, by which the petitioner’s representation against the order of compulsory retirement was rejected. A perusal of the said order reveals that the competent authority has considered each and every ground urged by the petitioner, and has assigned reasons for its conclusions.

23. It is borne out from the record that the petitioner was awarded an adverse entry on 08.08.2019 by the District Magistrate. The said adverse entry clearly records that despite a specific direction by the competent authority to stop illegal construction, but, the petitioner did not comply with the order. Such disobedience of the direction of a superior authority was treated as a serious lapse affecting discipline. Further, the Screening Committee as well as the appointing authority deciding the representation has noted that the petitioner was issued stern warnings on more than one occasion regarding laxity and unsatisfactory conduct. The communication dated 19.08.2019 from the District Magistrate, Dehradun, also records that the work and conduct of the petitioner was not satisfactory. These materials, considered cumulatively, constituted the basis of the Committee's recommendation.

24. As regards the contention of learned counsel for the petitioner that the entries relied upon by the Screening Committee were stale, insignificant, or had been erroneously taken into consideration, the contention is devoid of merit. The law is well-settled that while examining a case for compulsory retirement, the employer is entitled to evaluate the entire service record of the employee. The Hon'ble Supreme Court in *State of Gujarat v. Umedbhai M. Patel*, (2001) 3 SCC 314; *Nand Kumar Verma v. State of Jharkhand*, (2012) 3 SCC 580; and *Baikuntha Nath Das v. Chief District Medical Officer*, (1992) 2 SCC 299, makes it clear that while considering compulsory retirement, the entire service record may be looked into. Even if certain entries are old or penalties are minor, they cannot be ignored if they reveal a pattern of doubtful integrity or ineffective performance. The Court cannot order reinstatement merely because no major penalty was imposed, as compulsory retirement is not a punishment, but an administrative mechanism in public interest.

25. As regards the contention of the petitioner that the Screening Committee was improperly constituted and had relied upon extraneous considerations, this Court finds no merit in such submission. Rule 56 of the Financial Handbook, Part II-IV does not prescribe any statutory procedure for the constitution of a Screening Committee. The Government Order dated 20.02.2002, which provides for the constitution of such a Committee, is merely an administrative framework intended to facilitate an objective and uniform assessment of service records. The petitioner has neither demonstrated any violation of statutory provisions nor alleged any specific instance of bias or mala fides against the members of the Screening Committee. Significantly, none of the members of the Screening Committee have been impleaded as party respondents in their individual capacity.

26. The Court finds that although the petitioner's record contains instances of good entries, the service record must be judged as a whole, particularly keeping in mind the warnings for indiscipline and unsatisfactory conduct. The Screening Committee did not rely on a solitary incident; rather, it considered multiple independent inputs from superior authorities, which the petitioner did not rebut with any contrary material.

27. It is now well settled through a catena of decisions of the Hon'ble Supreme Court that judicial review in matters of compulsory retirement is limited. The Court may interfere only (i) when the order is mala fide; (ii) the order is based on no evidence; (iii) the order suffers from arbitrariness or perversity; (iv) or relevant material has been ignored and irrelevant material relied upon. In the present case, none of these grounds are satisfied. The Screening Committee had relevant materials before it, including adverse entries, warnings, and recent assessments of the petitioner's conduct. The authority deciding the representation also passed a reasoned order, showing application of mind. There is nothing on record to suggest mala fides or that irrelevant considerations weighed with the authority. The process adopted was in consonance with Rule 56 of the Financial Handbook, and the Committee's recommendations as well as the rejection of the petitioner's representation were based on objective evaluation.

28. In view of the above discussion and applying the settled principles governing judicial review of compulsory retirement, this Court finds no ground to interfere with the impugned order. The writ petition lacks merit and is accordingly dismissed.

29. No order as to costs.