

An order directing compulsory retirement of a judicial officer has no civil consequences

CASE BRIEF: Arun Kumar Gupta V/S State Of Jharkhand &

Anr.

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CITATION- NO. 391 OF 2018

COURT- SUPREME COURT OF INDIA

BENCH- Deepak Gupta, J., L. Nageswara Rao, J.

DECIDED ON- 27 FEB 2020

STATUTES- Jharkhand Service Code, 2001

➤ **BRIEF FACTS AND PROCEDURAL HISTORY-**

1. Two judicial officers who were members of the judicial service in the State of Jharkhand filed these petitions regarding orders of compulsory retirement. In respect of the two writ petitions which are the subject matter of this judgment, the Court passed the following order on 06.09.2018 stating high court to reconsider their decision.
2. Pursuant to the aforesaid order, the matters were placed before the Screening Committee of the High Court of Jharkhand and the Screening Committee on 11.10.2018 again found sufficient reasons and approved the earlier action taken to compulsorily retire these officers. The resolution of the Screening Committee was placed before the Standing Committee of the Jharkhand High Court, which approved the resolution of the screening committee on 25.10.2018.
3. Challenge is laid in both these writ petitions to the orders of compulsory retirement and especially to the reasons assigned of the material ignored by the Screening Committee.

➤ **ISSUES-**

1. Whether a court can issue compulsory retirement order to the judicial officers?

➤ **RATIO OF THE COURT-**

1. The court relied on following judgements-

- a) **Pyare Mohan Lal v. State of Jharkhand, (2010)10SCC693** in which the court held that *the law on the point can be summarised to the effect that an order of compulsory retirement is not a punishment and it does not imply stigma unless such order is passed to impose a punishment for a proved misconduct, as prescribed in the statutory rules.*
- b) **Rajendra Singh Verma v. Lt. Governor (NCT of Delhi)** this Court was dealing with the compulsory retirement of a judicial officer from the Delhi Higher Judicial Service. *It was held that if the authority bona fide forms an opinion that the integrity of a particular officer is doubtful and it is in public interest to compulsorily retire such judicial officer, judicial review of such order should be made with great care and circumspection.*
- c) **Union of India v. Col. J.N. Sinha** in which the court held that *Compulsory retirement involves no civil consequences. The aforementioned Rule 56(j) is not intended for taking any penal action against the Government servants. That rule merely embodies one of the facets of the pleasure doctrine embodied in Article 310 of the Constitution.*
- d) **Syed T.A. Naqshbandi v. State of J & K.,** this Court held that *while exercising powers of judicial review the Courts should not substitute themselves for the Committee/Full Court of the High Court.*

2. The law on the subject of compulsory retirement, especially in the case of judicial officers summarised by the court are as follows:

- a) *An order directing compulsory retirement of a judicial officer is not punitive in nature;*
- b) *An order directing compulsory retirement of a judicial officer has no civil consequences;*
- c) *While considering the case of a judicial officer for compulsory retirement the entire record of the judicial officer should be taken into consideration;*
- d) *Subsequent promotions do not mean that earlier adverse record cannot be looked into;*

e) *The 'washed off' theory does not apply in case of judicial officers specially in respect of adverse entries relating to integrity;*

➤ **DECISION HELD-**

1. The court on the judicial side must exercise restraint before setting aside the decision of such collective bodies comprising of senior High Court Judges.
2. Both the writ petitions were dismissed.

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