



**Central Administrative Tribunal  
Principal Bench, New Delhi**

O.A. No.2440/2023

Order reserved on 16.04.2024

Order pronounced on 30.04.2024

**Hon'ble Mr. Justice Ranjit More, Chairman  
Hon'ble Mr. Anand Mathur, Member (A)**

Gurjinder Pal Singh  
s/o late Paramjeet Singh Plaha  
aged about 53 years  
Indian Police Services  
r/o E-1, National Highway Colony  
Vivekanand Nagar, Pensionbada  
Raipur Chhattisgarh – 492 001

...Applicant

(Mr. Ankur Chhibber, Advocate)

Versus

1. Union of India through  
Secretary,  
Ministry of Home Affairs  
North Block, Cabinet Secretariat,  
Raisina Hill, New Delhi – 110 001
2. State of Chhattisgarh  
Through Secretary  
Mahanadi Bhawan, Mantralaya  
Naya Raipur 492002

...Respondents

(Mr. S N Verma and Ms. Rinki Negi, Advocates for  
respondent No.1 & Mr. Avdesh Kumar Singh and Mr.  
Prashant Singh, Advocates for respondent No.2)



## **ORDER**

**Mr. Justice Ranjit More:**

By filing this O.A. under Section 19 of the Administrative Tribunals Act, 1985, the applicant has taken exception to the order dated 20.07.2023 issued by the respondents whereby he has been compulsorily retired from service under Rule 16 (3) of the All India (Death-cum-Retirement Benefits) Rules, 1958 (for short "Rules 1958"). He has thus prayed for the following relief:

*"8.1 Call for the records of the case.*

*8.2 Quash and set aside Order No.30012/01/2016-IPS.II dated 20.07.2023 issued by the Respondents whereby the Applicant has been compulsorily retired from service under Rule 16 (3) of the All India (Death-Cum-Retirement Benefit) Rules, 1958;*

*8.3 Direct the Respondents to forthwith reinstate the Applicant in service.*

*8.4 Award all consequential benefits, and/or*

*8.5 Any other relief which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case"*

2. Brief facts, as narrated by the applicant in the O.A., giving rise to the present proceedings, are as follows:

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3. The applicant cleared the Civil Services Examination (CSE) and joined the Indian Police Service (IPS) in Madhya Pradesh cadre in 1994. On 24.12.2000, the applicant was re-allocated the Chhattisgarh cadre of IPS. The applicant is a gallantry award winner and during his service, he has received multiple commemorations and appreciation, especially in Naxal infested areas. The ACR/APAR of the applicant has mostly been '9' & above and never been below the rating of '8.5' throughout his career.

3.1 Till 12.03.2012, the applicant directly or indirectly was not involved in any controversy in his career. However, on 12.03.2012, one Mr. Rahul Sharma, the then Superintendent of Police, Bilaspur committed suicide, leaving a suicide note, wherein he mentioned the reason for committing suicide as, the harassment meted out to him by an 'interfering boss' and an 'arrogant and haughty Judge of the High Court'. Pertinently, the applicant was the supervisory officer of Mr. Rahul Sharma in his capacity as the Inspector General of Police, Bilaspur Range.

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3.2 Investigation of the suicide was entrusted to Central Bureau of Investigation (CBI), which examined more than 200 witnesses; and ultimately, found no case of abetment of suicide against the applicant. Accordingly, a closure report was filed by the CBI in the Court of Special Judicial Magistrate (CBI), Raipur on 11.09.2013.

3.3 The CBI addressed a letter to the Chief Secretary, Government of Chhattisgarh on 20.09.2013, enclosing therewith a Self-Contained Note (SCN). The contents of the SCN were more or less similar to the closure report. The State Government, by writing a letter dated 01.04.2016, communicated to the Government of India its decision to close the SCN filed against the applicant.

3.4 The applicant thereafter was appointed as Inspector General of Police – Anti Corruption Bureau (ACB)/ Economic Offences Wing (EWO), Raipur on 27.02.2019. This was a sensitive assignment and was given only after thorough verification of the records of the Officer. Thereafter, on 19.06.2019 he was promoted to the rank of Additional Director General of Police (ADGP) and was posted as ADGP,

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ACB. Meanwhile, there was a change of political regime in the State Government of Chhattisgarh on 17.12.2018.

3.5 The applicant, while working as ADGP-ACB/EOW was in-charge of several high profile and sensitive investigations in the State, including the Nagrik Apoorti Nigam scam amongst others. While handling the aforesaid investigation, the applicant was time and again subjected to political pressure from the higher echelons of the State Government to conduct the investigations as per their instructions.

3.6 The applicant, however, did not succumb to the pressure being exerted on him. Since he did not toe the line of the higher echelons of the State, the applicant was unceremoniously and abruptly transferred to the Police Headquarters with no assignment and thereafter, as Director, State Police Academy.

3.7 The respondents maliciously, after a lapse of more than four years, constituted a five-member Inquiry Committee, vide order dated 06.11.2020 *qua* the suicide of Mr. Rahul Sharma. Aggrieved, the applicant preferred O.A. No.08/2021

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before the Jabalpur Bench of the Tribunal, which was pleased to grant a stay on the proceedings of the Inquiry Committee.

3.8 As a retaliatory measure against the applicant, his ACR/APAR for the assessment year 2019-20 was maliciously and arbitrarily downgraded from 7.90 to 6.00 with adverse remarks from both the Reviewing / Accepting Authorities. This was an offshoot of non-fulfillment of illegal demands of the higher authorities.

3.9 The applicant filed a representation but the same was not disposed of within the time limit and, therefore, he was constrained to approach Jabalpur Bench of the Tribunal by instituting O.A. No.02/2022.

3.10 Further, the applicant has also been subjected to a string of vindictive actions by way of lodging three successive FIRs in a period of less than a month. The particulars of the FIRs are as follows:-

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(i) FIR bearing No.22/2021 registered on 29.06.2021 by ACB/EOW against the applicant under Section 13 (1) (b) read with Section 13 (2) of the Prevention of Corruption Act, 1988 for allegedly owning disproportionate assets;

(ii) FIR bearing No.134/2021 registered on 08.07.2021 under Sections 124A, 153A, 505(2) of the Indian Penal Code (IPC), 1860 on the ground of seditious material; and

(iii) FIR bearing No.590/2021 registered on 28.07.2021 under Sections 384, 388 and 506 read with Section 34 of IPC, 1860 on an incident, which is alleged to have taken place six years ago.

3.11 Besides the aforesaid FIRs, instigated complaints of private individuals related to unconnected incidents, most recent of which is five years old, were received by the Director General of Police (DGP) directly. These complaints were received within a span of 24 hours commencing from 12.07.2021 and on the next day, i.e., 13.07.2021, the DGP

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constituted three Inquiry Committees to conduct inquiry against the applicant. However, procedural norms were flouted in these inquiries as the Officers, heading two of these Committees, were junior to the applicant. These complaints have deliberately been kept pending till date.

3.12 On 05.07.2021, the applicant was placed under suspension on account of registration of FIRs, contrary to the Rules of Business of the Executive Government of Chhattisgarh, 2009. Thereafter, on 12.08.2021, the Chhattisgarh Government Home (Police) Department issued a charge sheet against the applicant, containing seven articles of charge. Most of the charges are based on the allegations leveled in the above referred FIRs.

3.13 Even after a lapse of more than two years, the applicant was not provided a complete set of documents in respect of the aforesaid charge-sheet, and the lackadaisical approach of the State Government can be gauged from the fact that despite a lapse of almost two years, the Inquiry Officer has not been appointed.



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3.14 The disciplinary proceedings initiated against the applicant were not taken to a logical conclusion and impugned order of compulsory retirement was passed as a shortcut to the disciplinary proceedings.

4. Mr. Ankur Chhibber, learned counsel representing the applicant made the following submissions:-

4.1 The applicant is a highly decorated, meritorious officer and has an impeccable service record. This is evident from the fact that he has received gallantry award besides multiple commemorations. The applicant's ACRs/APARs throughout his career were outstanding.

4.2 In respect of the suicide case of Mr. Rahul Sharma, the then Superintendent of Police, Bilaspur, a thorough inquiry was conducted by the CBI and the applicant was exonerated from the administrative and judicial proceedings. Hence, a decision was communicated by the Chhattisgarh Government in this regard to the Union Government by writing a letter dated 01.04.2016. Despite this, arbitrarily and maliciously, after a lapse of four years, the State Government constituted a

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five-member Inquiry Committee. This was challenged by the applicant before the Jabalpur Bench of the Tribunal by filing O.A. No.08/2021, which was pleased to grant a stay on the proceedings of the Inquiry Committee.

4.3 Regarding downgradation of the applicant's ACR/APAR for the assessment year 2019-20, Mr. Chhibber submitted that this is an arbitrary action on the part of the State Government, which has been taken as a retaliatory measure since the applicant refused to toe the line of the higher echelons of the State. He further submitted that the Reviewing and Accepting Authorities are one and the same, and that the grading of the Reporting Officer has been discarded without proper explanation. The issue of downgradation of ACR/APAR has been challenged by the applicant, which is *sub judice* before the Jabalpur Bench of the Tribunal.

4.4 Regarding the FIRs bearing Nos.22/2021 dated 29.06.2021 under Section 13 (1) (b) read with Section 13 (2) of the Prevention of Corruption Act, 1988, and 134/2021 dated 08.07.2021 under Sections 124A, 153A, 505(2) of IPC,

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Mr. Chhibber submitted that the same have been registered on concocted and manufactured source of information. In this regard, he relied upon the statements of star witness Mr. Mani Bhushan recorded on 05.01.2024 in disproportionate case as well as in a proceeding under Section 143 (2) of Income Tax Act, 1961.

4.5 Regarding the complaints of private individuals, Mr. Chhibber submitted that these complaints are stale, the most recent being five year old and had been received within a span of 24 hours by the DGP, who, very promptly on the next day, constituted three separate Committees. However, in two of them, the Officers heading them are junior to the applicant. Till date, after a passage of three years, no report has been submitted.

4.6 So far as the charge-sheet dated 12.08.2021 is concerned, the learned counsel submitted that despite a lapse of more than two years, neither the Inquiry Officer has been appointed, nor has the full set of documents in respect of the charge-sheet been provided to the applicant. Hence, the order

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of compulsory retirement was passed as a shortcut to the disciplinary proceedings.

4.7 Mr. Chhibber relied upon the decision of Hon'ble High Court of Judicature for Rajasthan at Jodhpur in **Chopasni Shiksha Samiti v. Gajendra Singh & others**, (2019) SCC OnLine Raj 430 and decisions of Hon'ble Supreme Court in **State of Gujarat v. Suryakant Chunni Lal**, (1991) 1 SCC 529, **State of Gujarat v. Umedbhai M. Patel**, (2001) 3 SCC 314, **Nand Kumar Verma v. State of Jharkhand & others**, (2012) 3 SCC 580 and **Captain Pramod Kumar Bajaj v. Union of India & another**, 2023 SCC OnLine SC 234. He submitted that the compulsory retirement order in the teeth of the settled principles, as laid down in the above judgments, is a shortcut to avoid the disciplinary proceedings and the same is liable to be quashed and set aside.

5. *Per contra*, Mr. Avdesh Kumar Singh, learned counsel representing respondent No.2 – State of Chhattisgarh contested the O.A. by filing a detailed affidavit in reply. He submitted that the applicant was never exonerated in any proceeding with respect to the suicide of Mr. Rahul Sharma.

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He further submitted that the SCN was issued for taking disciplinary action against the applicant by CBI, thus, it has nothing to do with the closure report.

5.1 The learned counsel denied that while handling the investigation, the applicant was time and again subjected to political pressure from the higher echelons of the State Government to conduct the investigations as per their instructions. He submitted that these allegations are absolutely baseless and without any substance.

5.2 It has been further denied that five-member Inquiry Committee was constituted vide order dated 06.11.2020 against the applicant *qua* suicide of Mr. Rahul Sharma as a retaliating measure. The learned counsel denied that ACR/APAR in question was maliciously and arbitrarily downgraded with adverse remarks for the assessment year 2019-20 as a retaliating measure. He, however, refrained from commenting on the merits of the downgrading of ACR/APAR of the applicant inasmuch as the issue is *sub judice* before the Jabalpur Bench of the Tribunal.

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5.3 Regarding lodging of three consecutive FIRs against the applicant, the learned counsel refrained from commenting on the merits of the matter, as the same are pending adjudication before a Criminal Court. He specifically denied that the applicant has not been provided with the complete set of documents in respect of the charge-sheet issued to him. He submitted that the disciplinary proceedings have been delayed at the instance of the applicant himself, as he is adopting delay tactics due to which appointment of Inquiry Officer is also getting delayed.

5.4 The learned counsel further submitted that on 04.12.2021, a meeting of Review Committee was held and the cases of 33 IPS officers were reviewed, who had completed 15/25 years of service or completed 50 years of age. This review was conducted as a matter of practice of each member of such Service as per Rule 16 (3) of the Rules 1958.

5.5 On 06.12.2021, the 2<sup>nd</sup> respondent sent the recommendations of 1<sup>st</sup> Review Committee meeting held on 04.12.2021 to the Government of India for necessary action. On 29.12.2021, Ministry of Home Affairs, Government of

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India raised certain queries regarding the aforesaid recommendations. In response to this, the 2<sup>nd</sup> respondent, through a letter dated 14.02.2022, replied to the queries raised by the Ministry of Home Affairs, Government of India. Thereafter, on 09.11.2022, Ministry of Home once again raised certain queries and sought a revised proposal from the 2<sup>nd</sup> respondent. On 20.02.2023, the 2<sup>nd</sup> Review Committee meeting was held and a recommendation/revised proposal was made by the Committee. On 09.03.2023, the 2<sup>nd</sup> respondent sent the revised proposal to the Ministry of Home Affairs. This time also, certain queries were raised by the Ministry of Home Affairs on 21.03.2023 with respect to the revised proposal/second recommendation. On 27.03.2023, the 2<sup>nd</sup> respondent replied to the queries raised and ultimately, vide order dated 20.07.2023, the order of compulsory retirement of the applicant was issued under Rule 16 (3) of the Rules 1958.

5.6 The learned counsel finally submitted that the order of compulsory retirement of the applicant has been passed after taking into account his entire service record and the same is in public interest. Therefore, the order is not liable to be

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interfered with by this Tribunal. In support of his submissions, the learned counsel relied upon the decisions of Apex Court in **Union of India v. M. E. Reddy & another**, (1980) 2 SCC 15 and **Baikuntha Nath Das & another v. Chief District Medical Officer, Baripada & another**, (1992) 2 SCC 299.

6. Respondent No.1 filed its separate affidavit in reply. Mr. S. N. Verma, learned counsel representing respondent No.1 submitted that after considering the proposal of the State Government (respondent No.2), the Ministry noted the following findings of the Review Committee:-

- *“In a case of disproportionate assets against the applicant, he was arrested by Economic Offence Wing, Anti Corruption Bureau, in Delhi on 11.01.2022. He was handed over to judicial custody on 18.01.2022 by the Hon'ble Court (Prevention of Corruption Act), Raipur. Thereafter, he was released on bail on 14.05.2022 on certain conditions by the Hon'ble High Court of Chhattisgarh at Bilaspur.*
- *In view of registration of Crime No. 22/2021 in case of disproportionate assets by the EOW/ACP Raipur, the applicant was suspended vide Order dated 05.07.2021 followed by issuing Charge Sheet dated 12.08.2021 mainly on the charges of acquisition of movable and immovable property in excess of known sources of income, attempt to destroy evidence, attempts to create disaffection and hatred towards the government, attempts to promote superstition, character slander and spreading disharmony against religion and society.*





- *After investigation, a number of complaints regarding misuse of official position were pending against the applicant.*
- *During the posting of the applicant as IGP, Bilaspur, Shri Rahul Sharma, the then SP Bilaspur committed suicide and after the investigation of the case, the CBI submitted a Self Contained Note to the State Government, according to which, a Committee has been constituted for investigation on points mentioned in Paras 06 to 17 of the Self Contained Note. The same has been stayed by the Hon'ble CAT. Jabalpur Bench.*
- *Number of criminal cases of serious nature, including disproportionate assets were pending against him, in which, Prosecution Sanction has also been given by the State/Central Government.”*

7. The learned counsel submitted that having considered the recommendations of the Review Committee, the Ministry of Home Affairs examined the provisions contained in Rule 16 (3) of the Rules 1958 as also the rationale of the provisions and thereafter, vide O.M. dated 01.05.2023, the Ministry of Home Affairs sent a proposal for retirement of the applicant in public interest to the Department of Personnel & Training (DoPT) for consideration of the Appointments Committee of the Cabinet (ACC). The DoPT, vide O.M. dated 18.07.2023 conveyed the approval of ACC for retirement of the applicant in public interest and thereafter, the Ministry of Home, vide order dated 20.07.2023, retired the applicant in public interest under Rule 16 (3) of the Rules 1958.

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8. We have gone through the averments made in the O.A., affidavits in reply filed by respondent Nos. 1 & 2 respectively, rejoinders thereto filed by the applicant as also the additional documents filed by the applicant. We have also given our anxious thoughts to the submissions of learned counsel for the respective parties.

9. Before entering into the merits of the O.A., we must take a survey of law relating to compulsory retirement laid down by the higher Courts.

10. The Hon'ble Supreme Court in **M. E. Reddy's** case (supra) held as under:-

*“12. An order of compulsory retirement on one hand causes no prejudice to the Government servant who is made to lead a restful life enjoying full pensionary and other benefits and on the other gives a new animation and equanimity to the Services. The employees should try to understand the true spirit behind the rule which is not to penalise them but amounts just to a fruitful incident of the Service made in the larger interest of the country. Even if the employee feels that he has suffered, he should derive sufficient solace and consolation from the fact that this is his small contribution to his country for every good cause claims its martyr.”*

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11. The Apex Court in the case of **Baikuntha Nath Das** case (supra) held that the order of compulsory retirement is not a punishment. It implies no stigma, nor any suggestion of misbehavior. The order of compulsory retirement is in public interest and has been passed on the subjective satisfaction of the Government and is not liable to be quashed by the Court merely for the reason that un-communicated adverse remarks were taken into consideration.

12. In the matter of **Umedbhai M. Patel** (supra), the Apex court summarized the law relating to compulsory retirement and following principles were laid down:

*“11. The law relating to compulsory retirement has now crystallized into definite principles, which could be broadly summarised thus:*

*(i) Whenever the services of a public servant are no longer useful to the general administration, the officer can be compulsorily retired for the sake of public interest.*

*(ii) Ordinarily, the order of compulsory retirement is not to be treated as a punishment coming under Article 311 of the Constitution.*

*(iii) For better administration, it is necessary to chop off dead- wood, but the order of compulsory retirement can be passed after having due regard to the entire service record of the officer.*

*(iv) Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.*



(v) *Even uncommunicated entries in the confidential record can also be taken into consideration.*

(vi) *The order of compulsory retirement shall not be passed as a short cut to avoid departmental enquiry when such course is more desirable.*

(vii) *If the officer was given a promotion despite adverse entries made in the confidential record, that is a fact in favour of the officer.*

(viii) *Compulsory retirement shall not be imposed as a punitive measure.”*

13. Further, the Apex Court in the case of **Captain Pramod Kumar Bajaj** (supra), made the following observations:

*“37. Having regard to the fact that the respondents did not take the disciplinary proceedings initiated against the appellant to its logical conclusion and instead issued an order compulsorily retiring him, this Court does not deem it expedient to delve into the allegations levelled in the said Charge Memorandum; all the same, we have cursorily gone through the Charge Memorandum that mentions three charges – one alleging that the appellant failed to seek permission from the department to purchase a flat in relation to the matrimonial dispute between him and his estranged wife and the second one is in respect of the allegation of bigamy levelled against him by his estranged wife. We have already noted earlier that during the course of the matrimonial dispute, the parties had arrived at a settlement and the flat that was agreed to be given to the wife, was not purchased by the appellant but by his brother, which fact is amply borne out from the documents placed on record. The matrimonial dispute between the parties stood closed on a decree of divorce being granted on the basis of mutual consent.....”*

(emphasis supplied)

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14. The Apex Court in the case of **Nand Kumar Verma** (supra) held that it is well settled that the formation of opinion for compulsory retirement is based on the subjective satisfaction of the authority concerned 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.

15. The Government of India, Ministry of Personnel, Public Grievances & Pensions (DoPT) vide communication dated 28.06.2012 addressed to the Chief Secretaries to the Government of All States/Union Territories, referred the principles laid down by the Apex Court in **Umedbhai M. Patel's** case (supra) and instructed the State Government that these principles relating to retirement in public interest will apply to the revised Rule 16 (3) of the Rules 1958.

16. In light of the principles laid down by the Apex Court regarding law relating to the compulsory retirement, we will now consider the rival submissions of the parties.



17. From the affidavits in reply filed on behalf of respondent Nos.1 & 2 respectively and the submissions made by their learned counsel, it is seen that the applicant was retired compulsorily under Rule 16 (3) of the Rules 1958 on the basis of following grounds:-

(i) An SCN issued by CBI after completing the investigation into the case of suicide of Mr. Rahul Sharma and thereafter constitution of a five-member Inquiry Committee for investigation on the points mentioned in the SCN.

(ii) Registration of three successive crimes against the applicant, namely, FIR No.22/2021 dated 29.06.2021 under Section 13 (1) (b) read with Section 13 (2) of the Prevention of Corruption Act, 1988, FIR No.134/2021 dated 08.07.2021 under Sections 124A, 153A, 505(2) IPC; and FIR No.590/2021 dated 28.07.2021 under Sections 384, 388 & 506 read with Section 34 IPC; and his arrest in the first FIR No.22/2021 followed by suspension.

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(iii) Downgrading of the ACR/APAR of the applicant by the Reviewing / Accepting Authority for the assessment year 2019-20.

(iv) The complaints filed by private individuals against the applicant regarding misuse of official position; and

(v) Institution of disciplinary proceedings against the applicant by issuing the charge-sheet dated 12.08.2021 and that he is adopting delay tactics.

18. Dealing with the first ground, the following facts are significant to be noted.

19. On 12.03.2012, Mr. Rahul Sharma, the then Superintendent of Police, Bilaspur committed suicide, leaving a suicide note, wherein he mentioned that reason for committing suicide is due to the harassment meted out to him by an 'interfering boss' and an 'arrogant and haughty Judge of the High Court'. There is no dispute that CBI, after detailed investigation, did not find the case of abetment of

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suicide and accordingly, a closure report was filed before the learned trial court. The said closure report was accepted by a well-reasoned order by the trial court vide judgment/order dated 21.07.2017. Relevant portion of the said judgment/order reads thus:-

*“It also appears to be appropriate to clarify here that powers conferred to superior police officers have been mentioned section 36 of Criminal Procedure Code that Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station. Thereby meaning that, aforementioned provision provides absolute right of supervision to the posted superior police officer on the subordinate police officers.*

*Objectioners have also raised this objection that I.G. Shri GP Singh used to interfere in the functioning of Shri Rahul Sharma and he used to contact and dialect with his subordinates directly, as a result of which Rahul Sharma used to feel highly state of sorrow and harassed. In this connection, provision contained in section 36 of Criminal Procedure Code has already been mentioned hereinabove, which is a subject matter jurisdiction of a superior police officer. It appears very pertinent to mention here that during his tenure of two months posting in Bilaspur, Shri Rahul Sharma remained in leave for 25 days. No officer was posted on the post of Superintendent of Police, Bilaspur for a long period, under such situation, it appears to be requirement of that time a senior police officer connected with law and orders, communicate with his subordinates directly and control them and according to the powers conferred under section 36 of Criminal Procedure Code, it was part of his official responsibilities to maintain law and orders in the area under his jurisdiction instead of personal responsibility. Therefore, aforementioned administrative conduct of Shri G.P. Singh cannot be held basis of committing suicide.*





*The facts in connection with subject of working system of Shri G.P. Singh as mentioned in the Closure Report and objectioners, all these entire facts and actions are appears to have been done in the capacity of supervising officer and under the legal provisions.*

*Resultantly, as stated hereinabove, on the basis of the facts and available evidence of this case, no solid ground is apparent to disbelieve on the Closure Report submitted by the CBI or remanding back for reinvestigation by validating this closure report. Therefore objection raised by the objectioners that Closure Report submitted by the CBI be invalidated and CBI be directed to reinvestigate the case again. Aforementioned objection is rejected, Closure Report and investigation conducted in this case being satisfactory, this Closure Report submitted on behalf of the CBI is accepted.*

*Case file be closed as per rule and Case Diary and other documents be returned back to the CBI.”*

20. A reading of the above observations by the trial court makes it abundantly clear that all the acts of the applicant while dispensing his duties as IG, Bilaspur were in the discharge of his official duties as supervisory officer and cannot be deemed to be interference in the work of Superintendent of Police. Accordingly, the trial court justified the said observations by citing the legal provisions from Cr.PC, Police Regulations and Civil Service Classification Rules.

21. Further, the CBI addressed a letter to the Chief Secretary, Government of Chhattisgarh on 20.09.2013,

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enclosing therewith an SCN. This SCN sent by the CBI to the Chief Secretary was duly considered and after following due process, based on the DGP's recommendations, the entire chapter was put to rest on 01.04.2016. For ready reference, the letter dated 01.04.2016 is reproduced hereinbelow:-

*“Under the above subject, ips-please refer to the Government of India, Ministry of Home Affairs letter no. 26011/73/2014-IPS-II dated 24.07.2015 whereby information was sought regarding the death of the then Superintendent of Police, Bilaspur Mr. Rahul Sharma IPS after the completion of the investigation of the registered case against Mr. G.P. Singh IPS (CH:1994) to take appropriate action on the proposal sent by the CBI, the action of the State Government, the closure report presented by CBI before the Hon’ble Court and information about the vigilance status of Mr. Singh has been sought.*

*2/ In this context, I have received instructions to inform you that:-*

*(i) The information regarding Vigilance Clearance of Mr. Singh has been sent to you in the prescribed form through the letter no.F 1-02/2015/Do-Grah/IPS, dated 09.02.2015, which is currently in place. (A photocopy of the letter is attached for easy reference).*

*(ii) The closure report submitted by the CBI to the Hon’ble Court is still under consideration.*

*(iii) In relation to the Self Contained note (SCN) presented by the CBI, there is a declaration that in the absence of evidence, the state government has decided to close the file and no action is proposed against Shri G.P. Singh.”*

(emphasis supplied)

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Clause (iii) of the aforesaid letter makes it unequivocally clear that in the absence of evidence, the State Government has taken a conscious decision to close the file and no action is proposed against the applicant.

22. In our considered opinion, once the file relating to SCN dated 20.09.2013 received from CBI having been closed and decided finally, as reflected in the aforesaid letter dated 01.04.2016, respondent No.2 could not have constituted a five-member Inquiry Committee, that too, after a lapse of more than four years, *qua* the suicide of Mr. Rahul Sharma. The applicant has, however, approached the Jabalpur Bench of the Tribunal by instituting O.A. No.08/2021, challenging the constitution of five-member Inquiry Committee. This Tribunal while granting stay observed as under:-

*“As per Annexure A-09, the learned Special Judge, CBI has accepted the closure report after hearing the objection of the complainant. Meaning thereby, the Special Court (CBI) has closed the matter. However, as per the impugned order dated 06.11.2020 (Annexure A-1), a sub-committee has been constituted on the basis of Self Contained Note, which amounts to reopening of the case for further investigation.*

*Learned counsel for the applicant has relied upon the judgment of Hon'ble Apex Court in the case of CSHA University and another vs. B.D. Goyal to the fact that there cannot be a second enquiry on the same facts, which amounts to de novo enquiry.*



*In such circumstances, we are of the view that this is a fit case for interim direction.*

*Accordingly, the respondents are directed not to proceed further in pursuance to Annexure A-1 dated 06.11.2020 till the next date of hearing.”*

It is pertinent to mention here that the stay granted by the Tribunal is in operation till date.

23. In light of the above, we are of the opinion that a five-member Inquiry Committee could not have been constituted to inquire against the applicant's role in the suicide of Mr. Rahul Sharma and hence, this cannot be a ground to retire him compulsorily.

24. It is the precise case of the applicant that there was a change of political regime in the State Government of Chhattisgarh on 17.12.2018. This fact is not disputed by both the respondents. The applicant also alleged that in his capacity as ADGP-ACB/EOW, he was in-charge of several high profile and sensitive investigations in the State, including the Nagrik Apoorti Nigam scam. While handling the aforesaid investigation, the applicant was time and again subjected to political pressure from the higher echelons of the

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State Government to conduct the investigations as per their whims. Since he did not toe the line of the higher echelons of the State Government, he was unceremoniously subjected to vindictive action by way of registering three successive FIRs within a period of less than a month.

25. The first FIR was registered on 29.06.2021 bearing No.22/2021 by the ACB against the applicant under Section 13 (1) (b) read with Section 13 (2) of the Prevention of Corruption Act, 1988, for alleged disproportionate assets. In the said FIR, recovery of 2 kg gold from one Mr. Mani Bhushan formed the basis of the allegation of disproportionate assets of the applicant. The ACB conducted the raids at the residence of the applicant between 01.07.2021 and 03.07.2021. While nothing illegal or controversial was found at the residence of the applicant, the raiding officers resorted to planting some torn pages outside the residence allegedly containing adverse written contents against the State Government. On the basis of this material, second FIR bearing No.134/2021 was registered against the applicant on 08.07.2021 under Sections 124, 153A & 502 (2) IPC. Thereafter, third FIR bearing No.590/2021 was registered on

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28.07.2021 under Sections 384, 388 & 506 read with Section 34 IPC.

26. Mr. Mani Bhushan from whom 2 kg gold and seditious material was recovered, was examined as star witness in the criminal proceedings initiated against the applicant in pursuant to FIR No.22/2021 and he gave the following admissions:-

*"11. ....It is correct to state that address of my new house was not mentioned in aforementioned Search Warrant.*

*14. ... When those persons did not find relevant documents in my house as per the search warrant that were related to G.P. Singh, then those persons started interrogating me... Sapan Choudhary had interrogated me. In the aforementioned interrogation, Sapan Choudhary had told me that "this case is between government and G.P. Singh, you cooperate with us, if you will not cooperate with us, then action will also be taken against you regarding the articles related to you." He stated that "government is against G.P. Singh, if you will not cooperate, then you will be a prey of the same wrath...."*

*17. In the A.C.B. office, Sheikh Arif Hussein, D.I.G. had told me that you bring and give us property of G.P Singh from anywhere. My signatures were obtained on blank documents in the A.C.B. office, were obtained under pressure. I had refused to append my signatures on those blank papers, but he had threatened me that if I do not append signatures on blank papers, then false F.I.R. and other criminal cases will be foisted against me which will also include sections of POCSO. Sapan Choudhary and Amit Nayak had also physically thrashed me in the A.C.B. office. In the A.C.B. office, I was shown some F.I.R and false drafts of complaints and I was told that you will be implicated in these false criminal cases and due to this fear, I had appended my signatures on those blank papers.*



18. *...Thereafter he had told me that we will recover gold from your house Then after hearing his tone and posture, I had realized that he will affect recovery despite my denial and after thinking on this point, I had told him that you may affect recovery from my scooty knowing that it was parked under CCTV surveillance so that I could produce evidence of plantation in future.*

19. *It is correct to state that under police pressure, I had appended my signatures on various papers mentioning ante dates...."*

#### **AGASINT THE RECOVERY OF SEDITIOUS MATERIALS**

20. *It is correct to state that document exhibits P-12 to P-17 were not prepared in my presence. It is correct to state that in portion A to A of document exhibits P-12 to P-19 and Superdarnama exhibit P-21 was made to sign on ante dates in the A.C.B. office. On showing page no.4 of Search Panchnama of exhibit P-13 to this witness, on asking he stated that there is mentioning of open envelop of orange colour in portion D to D whereas no document mentioned in portion D to D was recovered from my house in my presence It is correct to state that detail mentioned in portion C to C of exhibit P-15 is false and no seizure as stated above was effected from my house. This witness was shown seizure memo exhibit P-15 wherein 10 pages are mentioned to have been seized and out of those, 5 pages on front and reverse were shown thereof, this witness stated that his signatures shown to be appended at portion A to A of the aforementioned pages do not belong to him.*

23. *...It is correct to state that a false letter was got written from me forcibly that G.P Singh is mounting mental pressure on me.*

25. *...It is correct to state that police had also mounted pressure on me at the time of recording my statement in the magistrate court as police was present from the main gate to door of the court. It is correct to state that I had given both aforementioned false statements under pressure of the police. Voluntarily stated that I had threat to my life and liberty...."*

From the statement of Mr. Mani Bhushan, we find substance in the case of applicant that 2 kg gold and seditious material

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had been planted by the investigating officer illegally in order to frame him in a criminal case.

27. It may not be out of place to mention that on the basis of allegation of recovery of 2 kg gold, proceedings under Section 143 (2) of Income Tax Act, 1961 were initiated. In the said proceedings, material information had come on record. Relevant excerpt of the statement on oath made by Mr. Mani Bhushan is as under:-

“Q.6....

*xxxi. I was told that "the case is between the State and Shri GP Singh State is against Shri GP Singh. We have nothing against you. We just want to decimate Shri GP Singh. You either be on our side or else face the consequences. There is no other way. If you wanted to save your life cooperate with us"*

*xxxix. Then Shri Sapan Choudhary went again to Director ACB/EOW Cabin (I don't who are the persons inside at that time) and after around 5 Minutes he came back and told me "We will recover 2 Kg gold from your scooty and our senior officials are going to procure it from some place. You have to give a video statement stating that you were handed over one packet by Shri GP Singh on 29<sup>th</sup> June 2021 and Shri GP Singh had told you that some device is inside it and you should not open that packet"*

.....

*xviii. Similarly, he had now forged one sedition documents and obtained my ante-dated signatures upon it."*

28. After recording the statement of Mr. Mani Bhushan on oath and verification of the allegations, proceedings against



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the applicant were closed. Relevant portion of the order reads thus:-

*“7. In view of the detailed submissions made by Shri Mani Bhushan in his statement recorded on oath u/s 131(1) of the Act on 13.02.2024 and deposition of Shri Mani Bhushan before the Hon'ble Learned Trial Court (1<sup>st</sup> Additional District and Sessions Judge, Raipur) during his cross examination on 05.01.2024 it is evident that the two gold bars (approx weighing 1kg each) seized by ACB Raipur from the Active vehicle (CG 04 ML 9438) parked at his residence D-3/1 SBI Apartment Shankar Nagar, Raipur does not belong to Shri G P Singh.”*

29. In light of the above admissions and statements of Mr. Mani Bhushan on oath, resulting in closure of the proceedings against the applicant, we find substance in the case of the applicant that two FIRs, referred to above, were registered to frame him. We also find substance in the allegation of the applicant that this was done at the behest of higher authorities of the State Government, as he did not toe the line of pressure.

30. So far as third FIR No. 590/2021 dated 28.07.2021 is concerned, the same was registered under Sections 384, 388 & 506 read with Section 34 IPC. Interestingly, the said FIR was registered as 'Zero FIR', which is registered only in emergent situation, requiring immediate action. It is worth

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mentioning that the said FIR was registered in respect of an incident, which is said to have taken place six years ago, wherein it is alleged that the applicant demanded money for filing a charge-sheet beyond 60 days to make the accused eligible for default bail in Crime No.195/2015. The contention of the applicant that his claim that the accused in Crime No.195/2015 never got the benefit of default bail and was released in due process after a period of more than seven months in judicial custody, is not even controverted by the respondents. It is clear from the fact that the said FIR was filed in respect of an incident, which took place six years ago, gives credence to the applicant's contention that it got registered maliciously and with an ulterior motive in order to frame him.

In this conspectus, we are of the opinion that the third FIR could not have been the basis to retire the applicant compulsorily. We, however, make it expressly clear that the above observations in respect of registration of three FIRs are made for the purpose of disposal of the present O.A. and the competent criminal court can decide the criminal case independently on its own merit.

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31. So far as the ground relating to downgradation of ACR/APAR of the applicant for the assessment year 2019-20 is concerned, the applicant has alleged that the ACR/APAR for the year 2019-20 has been arbitrarily and adversely downgraded from 7.90 to 6.00, despite the stellar comments of the Reporting Authority that “Overall he is an asset to any organization he works in”. On examining the contents of the aforementioned ACR/APAR, we find that the overall grading given by the Reporting Officer was 7.90, which has been reduced to 6.00 by the Reviewing/Accepting Authority. In the pen picture given by the Reporting Authority, the following had been recorded:-

*“He is polite and humble officer with pleasant habits.*

*He believes in delegation and encourages his subordinates to work as a team by extending required support.*

*He has the experience and competence to handle sensitive matters.*

*The officer possess a very good knowledge of law, rules and procedure.*

*He is extremely hard working and sincere; who is willing to take additional responsibilities.*

***Overall he is an asset to any organization he work in.”***

(emphasis supplied)

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32. A mere glance at the above remarks shows that the Reporting Officer has been positively impressed by the polite demeanor as well as pleasant habits of the applicant, his support to his subordinates to work as a team, handle sensitive matters, his very good knowledge of law, rules and procedures, his willingness to take on additional responsibilities and his being an asset to the organization. Obviously, all these qualities point towards the officer being of an outstanding personality and caliber.

33. Against the above qualities, in the specific column regarding difference of opinion and detailed reasons therein, the Reviewing Authority has simply recorded as under:-

*“Do not agree fully with the opinion provided by the appraising/reporting authority. His working style needs to improve for him to become a better officer.”*

Further, in the comments on the pen picture written by the Reporting Authority, the following comments have been given:-

*“He needs to improve his coordination skills and work better as a member of a team. His working style needs to improve for him to become a better officer.”*

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34. The aforementioned comments of the Reviewing / Accepting Authority are very general in nature and cannot be taken as an explanation to substantially change the evaluation of the officer. Difference of opinion was required to be substantiated by quoting specific reasons thereof.

35. We, therefore, feel that in view of the major difference of opinion between the Reporting Officer and Reviewing/Accepting Authority, it was incumbent upon the Reviewing/Accepting Authority to specifically bring out the reasons for disagreeing with the excellent evaluation of the Officer (applicant) given by the Reporting Authority.

36. In view of the above, it is felt that the downgradation of the overall performance from 7.90 to 6.00 has not been substantiated by any logical reasoning, which was required to be given by the Reviewing/Accepting Authority. Therefore, justification for this downgradation is conspicuous by its absence.

37. The applicant had made a representation against the down grading of ACR/APAR but his representation was not

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decided within limitation. Aggrieved by this inaction, the applicant had preferred O.A. No.02/2022 before the Jabalpur Bench of the Tribunal against the arbitrary action of down grading of the aforesaid ACR of the applicant. This O.A. is stated to be pending consideration before the Jabalpur Bench of this Tribunal.

38. We, therefore, feel that it was premature on the part of the respondents to issue the impugned order, which is also based upon the ACR/APAR, which is *sub-judice* in the Tribunal. Therefore, on this count also, the action of the respondents is not justified.

39. It has also been alleged by the learned counsel for the applicant that Ministry of Home Affairs, Government of India vide its letter dated 24.06.2022 had sought the following information:-

*“On perusal of the aforesaid documents, it was revealed that MHA, GOI vide its letter dated 24.06.2022 sought information as below:*

*“2.. It has transpired from APAR of last some years of Shri Gurjinder Pal Singh that grading of this officer has been almost Outstanding. In this reference, State government should clarify whether*



*his entire service record has been taken into consideration while recommending his case?*

*3. For providing compulsory retirement, total amount equivalent to three months' pay and allowances have to be paid and besides this, entire retirement benefits will also have to be paid to the officer on providing him compulsory retirement. Under such a situation, when proceeding under AIS (D&A) Rules, 1969 is pending against this officer, whether it is not better to complete the enquiry at speedy level under rule 16(3) of AIS (DCRB) Rules, 1985 and necessary Action should be taken as soon as possible than providing him retirement? Because range of the penalty to be imposed after retirement becomes less, therefore, State government should give its comments in this regard."*

*In reply thereto the State Government of Chhattisgarh replied as under:*

*"2. (Blank)*

*3.....*

*In the departmental enquiry pending against Shri Gurjinder Pal Singh, he was issued charge sheet on 12.08.2021 and reply has been sought from him within 15 days, but despite providing concerned documents, Shri Singh has not submitted his reply of the charge sheet, instead demanded additional documents thereby unnecessary delay is being done, as a result, process of departmental enquiry is not progressing.*

*It is pertinent to mention here that departmental enquiry is a constant process, wherein action of imposing penalty against the concerned delinquent can be taken after completion of enquiry. Therefore, as per Point 4.4 of Enclosure of Guidelines dated 28.06.2012 issued by the Government of India, "No officer should ordinarily be retired from his service on the ground of ineffectiveness, if he has retired from service within a period of one year from the date of consideration of his case. However, this does not apply in a case where the integrity of the officer is doubtful or where there has been a sudden and drastic decline in the efficiency or effectiveness of the officer."*

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*Therefore, keeping in view the aforementioned circumstances, the Committee has recommended to issue/provide compulsory retirement to the concerned officer."*

40. The queries raised by the Ministry of Home Affairs were not completely or satisfactorily answered by the Government of Chhattisgarh as can be seen from the above comments. Thus, the punishment of compulsory retirement is questionable on this account also.

41. Insofar as three separate complaints made by the private individuals within the span of 24 hours between 12.07.2021 and 13.07.2021 are concerned, these complaints were filed directly to the DGP. The complaints are regarding unconnected incidents and the most recent of which was five years old. The DGP acted hastily with utmost urgency and constituted three Inquiry Committees within 72 hours to conduct inquiry against the applicant. While doing so, the DGP flouted the procedural norms, as the Officers, heading two of these Committees, were junior to the applicant. It is worth mentioning that these complaints have not been taken to their logical conclusion.



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42. Having regard to the delay in filing the complaints, the span of 24 hours during which these complaints were filed and the swift action of DGP of constituting three Inquiry Committees, gave credence to the applicant's allegation that these complaints got filed as a retaliating measure, as the applicant did not succumb to the pressure of higher echelons of the State Government to conduct the investigations as per their whims.

43. With regard to the last ground that the charge-sheet was issued to the applicant on 12.08.2021 and he is adopting delay tactics to prevent completion of the inquiry proceedings, we do not find any truth in it. Respondent No.2 has not disputed that despite a lapse of more than two years, the Inquiry Officer has not been appointed till date. This charge-sheet contains seven articles of charge and most of these charges are based upon the FIRs and SCN, referred to earlier. Respondent No.2, in terms of the settled law, was mandated to take the departmental inquiry to its logical end; however, they resorted to retire the applicant compulsorily as a shortcut to avoid completion of the departmental inquiry

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and the disciplinary action initiated by way of the charge sheet.

44. Howbeit, there are conflicting claims by the applicant on the one hand and both the respondents on the other, regarding supply of complete set of documents in respect of the charge-sheet, the fact remains that respondent No.2 has not appointed any Inquiry Officer till date and, therefore, the submission of respondent No.2 that the applicant is responsible for delaying the culmination of the disciplinary inquiry, cannot be accepted. Respondent No.2 was duty bound to take disciplinary inquiry to its logical end and could not have passed the impugned compulsory retirement order of the applicant as a shortcut to avoid inquiry.

45. In the facts and circumstances enumerated above, we are of the opinion that the applicant, has been retired compulsorily as a punitive measure. We also find that the order of compulsory retirement has been passed as a shortcut to avoid the departmental inquiry. The impugned order, retiring the applicant compulsorily, cannot be sustained in the eyes of law.

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46. Resultantly, the O.A. is allowed and the impugned order is quashed and set aside. The respondents are directed to reinstate the applicant, with all consequential benefits, within a period of four weeks from the date of receipt of a certified copy of this Order.

47. Pending M.A., if any, shall stand disposed of.

48. There shall be no order as to costs.

**( Anand Mathur )**  
**Member (A)**

**( Justice Ranjit More )**  
**Chairman**

/sunil/