



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on: August 07, 2024***

Pronounced on: August 23, 2024

+ W.P.(C) 10703/2024 & CM APPL.44045-47/2024

UNION OF INDIAPetitioner

Through: Mr. Chetan Sharma, Additional
Solicitor General with Mr. Harish V.
Shankar, CGSC, Mr. Amit Gupta, Mr.
Vinay Yadav, Mr. Shubham Sharma,
Mr. Srish Kumar & Mr. Vikramaditya
Singh, Advocates

Versus

GURJINDER PAL SINGH & ANR.Respondents

Through: Respondent No.1 in person with
Mr. Ankur Chhibber, Mr. Mrinal
Bharti, Mr. Y. Shukla, Mr. Nikunj,
Advocates

Mr. Avdhesh Kumar Singh, Additional
Advocate General with Mr. Prashant
Singh, Standing Counsel for
respondent No.2- State of Chhattisgarh

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

JUDGMENT

SURESH KUMAR KAIT, J

1. The petitioner in the present petition has assailed the order dated 30.04.2024 passed by the learned Central Administrative Tribunal (the W.P.(C) 10703/2024



‘Tribunal’) in O.A. NO. 2440/2023, vide which the order No. 30012/01/2016-IPS.II dated 20.07.2023, passed by the President in consultation with respondent No.2, thereby compulsory retiring respondent No.1 under Rule 16(3) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958, has been set aside. A direction has also been issued to the petitioner and respondent No.2 to reinstate respondent No.1 with consequential benefits.

2. Respondent No.1 had joined the Indian Police Service (IPS) in Madhya Pradesh Cadre in 1994 and was reallocated to Chhattisgarh cadre of IPS. Vide letter dated 06.12.2021, the State Government of Chhattisgarh-respondent No.2, informed the petitioner that in terms of provisions of Rule 16(3) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958, the record of 33 IPS officers of Chhattisgarh State were reviewed and the Review Committee did not find them fit to be retained in government service and recommended their retirement.

3. In pursuance of aforesaid recommendation proposal dated 06.12.2021, petitioner vide letter dated 29.12.2021 sought certain documents from respondent No.2, which were provided on 14.02.2022. While the proposal dated 06.12.2021 was under consideration, a proposal qua deemed resignation in respect of Myinthungo Tungoe, IPS came up for consideration and thus, his name for retirement in public interest was not considered. Mr. Mukesh Gupta, IPS had already superannuated on 30.09.2022 and thus, vide letter dated 09.11.2022 a fresh proposal was sought from respondent No.2.

4. Vide letter dated 09.03.2023 respondent No.2 informed the petitioner that in terms of meeting convened on 20.02.2023, respondent No.1 is not fit to be retained in service. The competent authority of petitioner, after



considering the proposal of respondent No.2, vide OM dated 01.05.2023, sent a proposal to the DoPT to retire respondent No.1, which was approved vide OM dated 18.07.2023. Consequentially, vide order dated 20.07.2023, respondent No.1 was compulsory retired from service.

5. The respondent No.1 challenged the aforesaid order dated 20.07.2023 before the learned Tribunal by filing O.A. NO. 2440/2023.

6. The backforth of the case, as narrated by respondent No.1 in his petition before the learned Tribunal, is that respondent No.1 had cleared Civil Service Examination and joined the service in Madhya Pradesh Cadre in 2000. He received gallantry award, multiple commemorations and appreciation and his ACR/APARs were mostly graded '9' or above and never below 8.5.

7. The respondent No.1 pleaded before the Tribunal that on 12.03.2012, one Rahul Sharma, the then Superintendent of Police, Bilaspur, committed suicide and in his suicide note, he mentioned the reason as 'harassment meted out to him by an 'interfering boss' and 'an arrogant and haughty judge of the high court'. Respondent No.1 was the Supervisory Officer of the said person, however, after investigation by the CBI, no case for abetment to suicide was found against him. Thus, a closure report was filed by CBI on 11.09.2013, which was conveyed to the Chief Secretary, Government of Chhattisgarh vide letter dated 20.09.2013 by the CBI.

8. Respondent No.1 was, therefore, appointed as Inspector General of Police on 27.02.2019 and was promoted to the rank of Additional Director General of Police on 19.06.2019. However, thereafter he was abruptly transferred to Police Headquarters with no assignment and thereafter, as Director of State Police Academy.



9. Respondent No.1 averred that on 6.11.2020, after a lapse of more than four years of Rahul Sharma having committed suicide and filing of closure report on 11.09.2013, petitioner constituted a five members Inquiry Committee, against which he preferred OA No.8/2021 before the Jabalpur Bench of the Tribunal.

10. The ACR/APAR of respondent No.1 for the assessment period 2019-20 was downgraded from 7.90 to 6.00 with adverse remarks, against which he made a representation, which was never decided by the petitioners and thus, respondent No.1 preferred OA No.2/2022 before Jabalpur Branch of the Tribunal.

11. In addition to above, three successive FIRs were lodged against the respondent, which have been mentioned as under:-

- (i) FIR bearing No.22/2021, registered on 29.06.2021 by ACB/EOW 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.

12. Besides above, complaints of three private individuals were also lodged within 24 hours from 12.07.2021 and 13.07.2021; pursuant to which three separate Inquiry Committees were constituted. In respect of two complaints, the authorities flouted the procedural norms and the inquiry was assigned to two juniors of respondent No.1, which were said to be pending.



13. On 12.08.2021, charge sheet was issued against respondent No.1, in respect of which he was never provided with complete set of documents and even after lapse of two years, Inquiry Officer was not appointed. Thus, respondent No.1 pleaded that the compulsory retirement order was nothing but short cut to avoid disciplinary proceedings and the same was liable to be quashed.

14. To the contrary, the stand of petitioner before the learned Tribunal was that respondent No.1 was never exonerated in any proceedings in respect of suicide of Mr.Rahul Sharma and SCN was issued for taking disciplinary action against him by the CBI and thus, it has nothing to do with the closure report. The petitioner denied having constituted an Inquiry Committee against the respondent No.1 *qua* suicide of Mr.Rahul Sharma. With regard to three pending FIRs against the said respondent, no submission was made on the plea of pendency of the case before the learned Tribunal, however, it was alleged that respondent was deliberately delaying the proceedings.

15. The petitioner also pleaded before the learned Tribunal that cases of 33 IPS officers were reviewed, who had completed 15/25 years of service or completed 50 years of age. The order of compulsory retirement was passed by the petitioner only after multiple proposals and revised proposals sent by respondent No.2 and taking into consideration entire service record of respondent No.1 and in public interest.

16. The learned Tribunal vide impugned judgment and order dated 30.04.2024 set aside the order dated 20.07.2023, directing the petitioners to reinstate respondent No.1 with all consequential benefits.

17. The order dated 30.04.2024 is assailed by the petitioner on the ground that the learned Tribunal failed to consider that the allegations raised by



respondent No.1 are vague and without any substance and he was not able to show any *mala fide*. According to petitioner, the order dated 20.07.2023 was passed in public interest under Rule 16(3) of the AIS (DCRB) Rules, 1958 after numerous rounds of deliberations and also with the approval of Appointment Committee of the Cabinet. The Tribunal has usurped the jurisdiction while evaluating the evidence in respect of various disciplinary proceedings, criminal complaints and downgrading of APAR in respect of respondent No.1, which cases are pending adjudication before the competent authorities.

18. It is averred that the learned Tribunal has analysed the status of FIRs registered against respondent No.1 and consideration of merits of the FIRs were without jurisdiction. The learned Tribunal has not considered the fact that respondent No.1 by filing OA No.8/2021 before the Tribunal at Jabalpur, has challenged setting up of a five member Inquiry Committee and downgrading of ACR has also been challenged in separate proceedings, which is pending adjudication before the Tribunal at Jabalpur.

19. The Tribunal did not appreciate that examination under Rule 16(3) of AIS (DCRB) Rules read with guidelines issued by the DoP&T vide letter dated 28.06.2012, has not been done in a routine manner by each Government, however, it is done with an objective to ensure the efficiency of the administration and performance of the State's obligation towards the public. The purpose is to find out as to whether the public servant will remain useful for public service in the remaining period/ tenure of his service or he would be such a person who will be more of a liability than assets.

20. Learned ASG appearing for petitioner submitted that the Review Committee had considered the service records of respondent no.1 on two



occasions i.e. on 04.12.2021 and 20.02.2023, which includes overall performance, quality of service rendered, conduct and outlook and thereafter, he was recommended for compulsory retirement in the public interest. Reliance is placed upon decision of Supreme Court in ***Baikuntha Nath Das and Anr. Vs. Chief Distt. Medical Officer, Baripada and Anr.*** 1992 SCR (1) 836.

21. The stand of petitioner is that the order dated 20.07.2023 directing compulsory retirement of respondent No.1 is not a punishment or penalty under Rule 6 of the AIS (D&A) Rules, 1969 but respondent No.1 has been granted retirement in public interest in terms of Rule 16(3) of AIS (DHC) Rules, 1958, which does not disentitle him from all terminal retirement benefits as applicable on a retiree. Reliance was placed upon Supreme Court's decision in ***Union of India Vs. M.E Reddy & Anr.***, 1980 (2) SCC 15 wherein it is held that a person compulsorily retired by the employer after putting in a sufficient years of service, having qualified a full pension, is neither a punishment nor a stigma.

22. Learned ASG submitted that the learned Tribunal did not appreciate that scope of judicial review is very limited and is permissible only on the limited grounds of non-application of mind, as has been held by Supreme Court in ***Ram Murti Yadav Vs. State of U.P.*** (2020) 1 SCC 801 and thus, the impugned order dated 30.04.2024 passed by the learned Tribunal, deserves to be set aside.

23. We have carefully gone through the impugned judgment as well as other material placed on record.

24. In the present case, the petitioners have pleaded that in terms of rule 16(3) of the Rules of 1958, the cases of 33 IPS officers were reviewed, who



had completed 15/25 years of service or completed 50 years of age and respondent No.1 one amongst them. The stand of petitioners is that prior to passing of the impugned order, the petitioner fully satisfied itself that case of respondent No.1 falls under Rule 16(3) of AIS(DRB) Rules, 1958 read with DoPT OM dated 28.06.2015. The provisions of Rule 16(3) provides as under:-

“The Central Government may, in consultation with the State Government concerned, require a member of the service to retire from service in public interest after giving such Member at least three month's previous notice in writing or three month's pay and allowances in lieu of such notice: -

(i) after the review when such Member completes 15 years of qualifying Service/or

(ii) after the review when such Member completes 25 years of qualifying Service or attains the age of 50 years, as the case may be, or

(iii) If the review referred to in (i) or (ii) above has not been conducted after the review of any other time as the Central Government deems fit in respect of such Member.”

25. The learned Tribunal, in the impugned judgment, has relied upon guiding principles laid down by the Hon'ble Supreme Court in ***State Of Gujarat Vs. Umedbhai M. Patel*** 2001 (3) SCC 314 in cases where compulsory retirement would be justified, which are as under:-

“11. The law relating to compulsory retirement has now crystallised 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 compulsory 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.”

26. This Court now proceeds to examine the various grounds taken by the petitioner which resulted in compulsory retirement order against respondent No.1.

27. There is no dispute that in respect of suicide of Rahul Sharma, Superintendent of Police on 12.03.2012, investigation was carried out against respondent No1, in respect of which a closure report was filed by CBI on 11.09.2013. However, thereafter lapse of four years, a five member committee was constituted by petitioner, which was challenged by respondent No.1 by preferring OA No.8/2021 before the Jabalpur Bench of the Tribunal. Also, respondent No.1 had challenged down grading of his ACR/APAR for the assessment period 2019-20 by filing O.A. No. 2/2022



before the said Bench. Both these applications were transferred from Jabalpur Bench to Delhi Bench of learned Tribunal. This Court vide order dated 02.08.2024, had called for the records of these cases for perusal.

28. Whether reconstitution of five member committee, after almost five years of filing closure report, was just and proper has to be seen in the light of communication No. F 2-02/2014/Do-Grah/IPS Dated 01.04.2016 sent by the Home (Police) Department, Government of Chhattisgarh, which reads as under:-

“Under the above subject, ips-please refer to the Government of India, Ministry of Home Affairs letter no. 26011/73/20 14-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 1-02/20 15/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.*

29. It is also pertinent to note the findings returned by the Special Judicial Magistrate in judgment dated 21.07.2017, accepting the Closure Report submitted by the CBI, which reads as under:-

“Perused the written arguments adduced by the advocate on behalf of the objector, wherein most of the portion contains facts mentioned in aforementioned Closure Report, on which basis, Investigating Officer has not found to have committed any offence. No solid fact in the written argument have been produced, on which basis Closure Report submitted by the CBI could be rejected. In support of his argument, judgement citation 2015 (3) Crimes 514 Gujarat has been produced on behalf of the objector. Court has examined and analyzed the Closure Report submitted by the CBI since the beginning to last, but no such clear proof and ground in connection with abetment of deceased Rahul Sharma for committing suicide has come out, on which basis this Closure Report could be disbelieved. Aforementioned respectable judgement citation produced on behalf of the objector is not relevant in the perspective of facts of the incident taken place in this case and does not apply in the facts and circumstances of the present case.

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.”

30. It is worth to note the recommendation of the Government of Chhattisgarh vide communication dated 06.11.2020 whereby the five member committee has been constituted, which reads as under:-

“That according to the proposal given in the order No. F-2-02/2014/Two-Home/IPS, vide its letter no.PM/DGP/PA/2020 (585) dated 28.10.2020 according to the given proposal the said state government, in relation to the suicide done by Late Shri Rahul Sharma, the then Superintendent of police, that in relation to the paragraph no. 6 to 17 of self contained note of the CBI, the brief investigation done by the said following committee;

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*ON THE NAME OF GOVERNOR OF
CHATTISGARH AND BY THE ORDER”*

31. There is no doubt that by issuing communication dated 06.11.2020, respondent No.2 has infact reopened the inquiry, fate of which stood already closed under the order of the Court. The Hon’ble Supreme Court in ***CSHA University and another Vs. B.D. Goyal*** (2010) 15 SCC 776 has already held that there cannot be second inquiry on the same facts. It has been observed and held as under:-



“4. The District Judge came to the conclusion that initiation of a second enquiry by a second enquiring officer was invalid and inoperative since the authority who had taken that decision never disagreed with the conclusion arrived at by the enquiring officer, and had not indicated any reasons in writing, and as such not only the initiation of a second enquiry was bad in law but also any subsequent action pursuant to the said second enquiry must be held to be bad in law. With this conclusion, the plaintiff's appeal having been allowed, the University approached the High Court in second appeal.

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7. It is no doubt true that the punishing authority or any higher authority could have disagreed with the finding of the enquiring officer, but in such a case the authority concerned is duty-bound to record reasons in writing and not on ipse dixit can alter the finding of an enquiring officer. The order of the Vice-Chancellor, which was produced before us does not satisfy the requirements of law in the matter of differing with the findings of an enquiring officer. In that view of the matter, we do not find any infirmity with the impugned judgment so as to be interfered with by this Court. This appeal accordingly fails and is dismissed.”

32. In light of aforesaid decision in ***CSHA University (Supra)***, this Court finds that while reopening the case of respondent No.1, that too without any reasoning or any fresh ground, especially when Closure Report mentioned that no case was made out against him, which was accepted by the Court, is nothing but an apparent attempt to harass respondent No.1.



33. Now coming to the Annual Performance Report (APAR) of respondent No.1 for the year 2019-2020, which shows his downgraded performance. This Court finds that for the period 1.04.2016 till 05.07.2017 and also for 06.07.2016 till 31.03.2017, respondent No.1 was awarded grading '10'. For the period 01.04.2017 till 27.12.2017, respondent No.1 was awarded grading of '9.5' and again for 28.12.2017 till 31.03.2018 and from 01.04.2018 till 31.03.2018, respondent No.1 was awarded grading '10'. However, for the period 01.11.2019 till 31.03.2019, he has been given grading of '6'. Furthermore, the APAR grading for the period 01.11.2019-31.03.2020, the reporting officer gave 'outstanding' entry to the Respondent No. 1.

34. While issuing the impugned order it has been observed 'that keeping in view the entire service record', whereas the Review Committee has taken into consideration the period of only last five years, which apparently is in violation of Office Memorandum No. 25013/02/2005- AIS II dated 28.06.2012 issued by the Department of Personnel and Training.

35. The Hon'ble Supreme Court in ***Nand Kumar Verma Vs. State of Jharkhand &Ors.***, 2012 3 SCC 580 has observed and held as under:-

"34. It is also 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. 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



ACRs. There appears to be some discrepancy. We say so for the reason that the appellant has produced the copies of the ACRs 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.

36. The Hon'ble Supreme Court in *State of Gujrat Vs. Suryakant Chunni Lal*, (1999) 1 SCC 529 has observed and held as under:-

“24. The performance of a government servant is reflected in the annual character roll entries and, therefore, one of the methods of discerning the efficiency, honesty or integrity of a government servant is to look at his character roll entries for the whole tenure from the inception to the date on which decision for his compulsory retirement is taken. It is obvious that if the character roll is studded with adverse entries or the overall categorisation of the employee is poor and there is material also to cast doubts upon his integrity, such a government servant cannot be said to be efficient. Efficiency is a bundle of sticks of personal assets, thickest of which is the stick of “integrity”. If this is missing, the whole bundle would disperse. A government servant has, therefore, to keep his belt tight.

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28. There being no material before the Review Committee, inasmuch as there were no adverse remarks in the character roll entries, the integrity was not doubted at any time, the character roll entries subsequent to the respondent's promotion to the post of Assistant Food Controller (Class II) were not available, it could not come to the conclusion that the respondent was a man of doubtful integrity



nor could have anyone else come to the conclusion that the respondent was a fit person to be retired compulsory from service. The order, in the circumstances of the case, was punitive having been passed for the collateral purpose of his immediate removal, rather than in public interest. The Division Bench, in our opinion, was justified in setting aside the order passed by the Single Judge and directing reinstatement of the respondent.”

37. It is also worth to note here that three other IPS officers against whom inquiries were initiated along with respondent No.1, their names were dropped for one reason or the other but respondent No.1 has been roped in for the offences which do not even stand substantiated.

38. This Court now proceeds to examine other FIRs registered against respondent No.1.

I. On 29.06.2021, Anti-Corruption Bureau / EOW got registered FIR No.22/2021, under Section 13 (1) (b) read with Section 13 (2) of the Prevention of Corruption Act, 1988 against respondent No.1 for allegedly owning disproportionate assets, pursuant to raids conducted at the residence of said respondent for recovery of 2Kg of gold bullions in aid of Mani Bhushan, a SBI Officer, who was not even made an accused despite being a Government Servant. In respect of this recovery, proceedings under Section 143 (2) of Income Tax Act, 1961 were also initiated. Relevantly, in response to his summons dated 03.01.2024, Mani Bhushan vide his reply dated 16.01.2024, stated as under:-

“In reference to the above cited notice I beg



to state that I was served a notice to appear on 10.01.2024 related to my deposition on 15.11.2021 in Income tax office Raipur with regard to recovery of 2 kgs of gold bullions from my scooty parked in SBI colony in Shankar Nagar, Raipur. In reply to the above notice I attached my truthful deposition during cross examination dated 05.01.2024 before the Ld ADJ-1, District Court, Raipur wherein I have clearly stated, how I was threatened with implication in false FIRs and subjected to both physical and mental torture to be a forced witness to implicate G P Singh in a false case. The above torture was not only limited to myself but extended to my whole family. It will be pertinent to mention that as my scooty where the said gold bullions were planted was parked in an area which was covered by CCTV surveillance, the act of planting these gold bullions was captured in the said DVR of the CCTV system installed in said colony. ACB officials on knowing that their act has been captured in the CCTV footage forcibly took away the said DVR from the bank guard without giving any receipt of seizure. As per my understanding, subsequently on insistence by the bank guard to give a receipt of the above seizure, the ACB officials made a trail of fabricated documents to show that the said DVR along with the hard disk was returned to the bank guard. The administrative office of SBI on knowing these facts shot a letter to the Director ACB to furnish the receipt of the hard disk that was surreptitiously taken away the ACB officers and not returned. This hard disk is crucial and sure shot evidence that will unfurl truth of recovery of this 2 kgs of gold bullions from my



scooty. In fact I am also victim of this entire criminal conspiracy of the officials of ACB/EOW Chhattisgarh.

Relevantly, pursuant to aforesaid statement made by Mani Bhushan and verification of the allegations, proceedings against the respondent No. 1 were closed.

- II. With regard to 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; pursuant to statement of Mani Bhushan and his cross-examination it revealed that there was no recovery of seditious material from respondent No.1. The Tribunal thus held that this FIR was registered against respondent No.1 at the behest of higher authorities of the State Government as he did not toe the line of pressure.
- III. In respect of 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, the Tribunal observed that the Zero FIR was registered after the alleged incident had taken place six years ago and there is no explanation for delay in registration of the FIR.

39. It is relevant to note here that proceedings in all the above three FIRs were stayed by the High Court of Chhattisgarh and without waiting for the outcome, order compulsory retiring respondent No.1 has been passed by the petitioner as a short cut method without even waiting for conclusion of



departmental proceedings. Accordingly, the Tribunal has rightly observed that *the competent criminal court can decide the criminal case independently on its own merit* and by observing so, has refrained itself from making observations on the merits of the FIRs.

40. What is clinching is that despite delay of three years, even Enquiry Officer was not appointed in the department proceedings and the learned Tribunal has taken serious note of this fact in the impugned judgment, which in our opinion is just and proper in the facts of the present case. The petitioners have not been able to show anything adverse in the service record of respondent No.1. The filing of various FIRs, are premised upon alleged recovery made from Mani Bhushan pursuant to raids conducted at his premises. In light of the statement of Mani Bhushan, a SBI Officer, the allegation against respondent No.1 do not appear to be such strong to direct compulsory retirement of respondent No.1.

41. Having noted above the totality of facts of the present case, we are of the opinion that the impugned order dated 30.04.2024 passed by the learned Tribunal suffers from no infirmity and thus, the present petition and pending applications are dismissed.

(SURESH KUMAR KAIT)
JUDGE

(GIRISH KATHPALIA)
JUDGE

AUGUST 23, 2024

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