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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 14.02.2025	Delivered on 21.02.2025
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CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN

W.P.No.23310 of 2022

S.Gunasekar, Retd. District Judge,
29F, Bye Pass Road,
Ranipet - 632 401,
Tamil Nadu.

... Petitioner

Vs.

1.State of Tamil Nadu,
Represented by the Chief Secretary,
Public (Special - A) Department,
Secretariat Building,
Fort St. George,
Chennai, Tamil Nadu - 600 009.

2.The Registrar General,
Madras High Court,
Parry Corner,
George Town,
Chennai, Tamil Nadu - 600 104.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus by calling the records pertaining to the impugned order of the 1st respondent vide G.O.Ms.No.743 Public (Special - A) Department dated 23.08.2021 and the consequential Notification No.235/2021 dated 15.09.2021 issued by the 2nd respondent vide R.O.C.No.03/2021-Con.B2 (ACR) serving the order of compulsory retirement to the petitioner from Tamil Nadu State Judicial Service and quash the same, with a consequential direction to the respondents to relieve the petitioner from the Judicial service to retire voluntarily or on superannuation with all consequential and attendant benefits.

For Petitioner : Mr.S.Gunasekar, Party-in-person
For Respondents : Mr.P.Balathandayutham,
Special Government Pleader for R1
Mr.Karthik Ranganathan for R2

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

Challenge in this Writ Petition is to the order of compulsory retirement issued by the Government accepting the recommendation of the



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High Court, compulsorily retiring the petitioner with effect from the date of service of the Government Order and on payment of three months pay and allowances *in lieu* of three months notice.

2. The petitioner was appointed as a District Judge, entry Level on 04.04.2018. He was placed under suspension in contemplation of an enquiry into grave charges on 08.04.2020. On the same day, the petitioner sought for voluntary retirement. Since the process of initiation of a departmental enquiry was on, the request for voluntary retirement was rejected by the High Court on 03.06.2020. A charge memo was issued on 25.02.2021 and written statement of defence along with preliminary objection were also filed by the petitioner on 07.03.2021.

3. In the interregnum, the petitioner completed 58 years of age. Hence, his case was taken up for review as per the directions contained in the judgment of the Hon'ble Supreme Court in *All India Judges' Association and others Vs. Union of India and others* reported in (1993) 4 SCC 288. The Administrative Committee of the High Court had in its

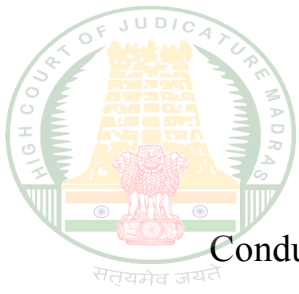


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meeting dated 15.04.2021 reviewed the case of the petitioner and resolved not to continue the services of the officer till the age of 60 years. Therefore, it was decided to compulsorily retire the officer. This resolution of the Administrative Committee dated 15.04.2021 was approved by the Full Court on 22.06.2021. Following the resolution of the Full Court, the Government had issued the impugned order compulsorily retiring the petitioner. Hence, the petitioner has come up with this writ petition.

4. We have heard the petitioner who appeared in person and Mr.P.Balathandayutham, learned Special Government Pleader for the 1st respondent and Mr.Karthik Ranganathan, learned counsel for the 2nd respondent.

5. Mr.S.Gunasekar, the petitioner, would contend that the charges were framed on the ground that the petitioner assets were dis-proportionate to his income and he was also accused of not informing the High Court about the acquisition of immovable properties by his wife. He would submit that Explanation to Rule 7 of the Tamil Nadu Government Servants'



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Conduct Rules, 1973 does not require an employee to notify acquisition or disposal of immovable property by the members of his family, if the immovable property in question is not acquired from the resource of the Government servant concerned. He would also contend that the circular issued by the Registrar (Administration) of this Court dated 01.04.1997 requiring the judicial officers to inform acquisition of immovable property, be it from the funds provided by the officer or otherwise, to the High Court, according to Mr.S.Gunasekar, this circular runs counter to the Rules and therefore the same cannot prevail over the Rules.

6. It is his next contention that his compulsory retirement is based on the entry in his annual confidential report for the period between 01.01.2019 to 31.12.2019, wherein it was recorded as below average. The annual confidential report for the period was recorded on 07.07.2021, it was approved by the Chief Justice on 23.07.2021. It was communicated to him on 06.12.2021. Even before communication of the adverse entries, a decision was taken to retire him compulsorily. This, according to the petitioner, is in violation of the Tamil Nadu State Judicial Service



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(Confidential Record) Rules 2014, particularly Rules 8 and 9.

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7. The third contention was that the directions issued by the State Government in resorting to compulsory retirement have not been complied with.

8. Contending contra Mr.Karthik Ranganathan, learned counsel appearing for the 2nd respondent would submit that Fundamental Rules FR 56(2) vests a discretion in the employer to compulsorily retire an employee, if, in the opinion of the employer, it will not be in public interest to continue the services of the employee. FR 56 deals with review of performance of employees at the age of 50 and 55. The Hon'ble Supreme Court by its judgment in *All India Judges' Association and others Vs. Union of India and others* referred to *supra* had introduced a third review in respect of judicial officers, such review is to be undertaken at the age of 58.

9. Mr.S.Gunasekar made an attempt to contend that since the age of retirement was increased from 58 to 60 by the State Government, the review



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at the age of 58 itself had become redundant.

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10. This contention has to be straight away rejected as even when the Hon'ble Supreme Court introduced the review at the age of 58 vide its judgment in *All India Judges' Association and others Vs. Union of India and others* referred to *supra*, the actual age of retirement of judicial officers in some States was 60. If the age of retirement was 58, then the extension upto 60 was at the discretion of the High Court. If the age of retirement was 60, the review at 58 years has to be done and the High Court had the discretion to compulsorily retire the judicial officer, if it is of the opinion continuance of the services of the petitioner beyond 58 years would not be in public interest. While continuance beyond 58 years, when the age of superannuation was 58 years would be an extension of services, discontinuance at any time beyond 50 years would be compulsory retirement, which is also within the discretion of the High Court. Therefore, the contention that the review at the age of 58 years ought not to have been done, since the age of retirement was raised to 60 years is unsustainable.



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WEB COPY 11. Reverting to the other contentions of Mr.S.Gunasekar, Mr.Karthik

Ranganathan, learned counsel appearing for the 2nd respondent/ High Court would submit that there were several complaints against the petitioner including complaints of ill-treatment of the lower grade staffs by his wife and the petitioner himself, acquisition of at least 25 items of immovable properties by his wife, which were not intimated to the High Court, purchase of a BMW car without intimation to the High Court and suspicious lumpsum credits in the salary account of the petitioner. While these charges were framed against the petitioner and the enquiry was contemplated, it was found that the petitioner had reached the age of 58 years and his case had to be reviewed in terms of the judgment in *All India Judges' Association and others Vs. Union of India and others supra*.

12. While undertaking the review, the Administrative Committee of the High Court formed an opinion that it would not be in public interest to continue the petitioner in service as a judicial officer, that too, in the cadre of a District Judge, in view of various charges that were framed against him.

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In order to protect the clean image of the District Judiciary, the

Administrative Committee resolved to compulsorily retire the petitioner.

This resolution of the Administrative Committee was dated 15.04.2021 i.e.,

even before the adverse entries were recorded in the annual confidential

report for the period from 01.01.2019 to 31.12.2019. Resolution of the

Administrative Committee was confirmed by the Full Court on 22.06.2021.

Both these events were prior to even the recording of the adverse remarks

which was on 07.07.2021. Therefore, the assumption of the petitioner that

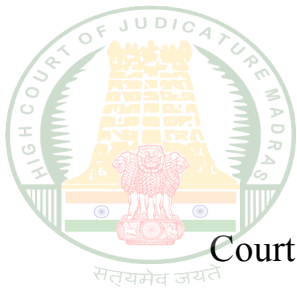
his compulsory retirement is relatable to the adverse remarks recorded by

the Administrative Judge on 07.07.2021 is incorrect. Therefore, there is no

question of violation of the Tamil Nadu State Judicial Service (Confidential

Records) Rules, 2014.

13. On the issue of compulsory retirement, Mr.Karthik Ranganathan would rely upon the judgment of the Hon'ble Supreme Court in *Ram Murti Yadav Vs. State of U.P.* reported in *(2020) 1 SCC 801*, wherein, the Hon'ble Supreme Court codified the contours of judicial review of an order of compulsory retirement based on subjective satisfaction reached by the High

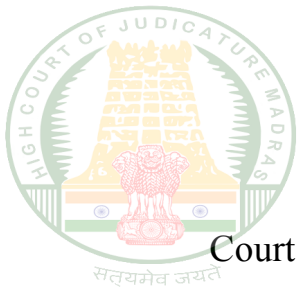


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Court under FR 56(2). The Hon'ble Supreme Court in Paragraph No.6 of the said judgment had this to say,

6. The service records of the appellant have been examined by the Screening Committee, the Full Court as also by the Division Bench of the High Court. The scope for judicial review of an order of compulsory retirement based on the subjective satisfaction of the employer is extremely narrow and restricted. Only if it is found to be based on arbitrary or capricious grounds, vitiated by mala fides, overlooks relevant materials, could there be limited scope for interference. The court, in judicial review, cannot sit in judgment over the same as an appellate authority. Principles of natural justice have no application in a case of compulsory retirement.

14. A similar issue was considered by a Division Bench of this Court in *R.Naraja Vs. State of Tamil Nadu and others* reported in *(2019) SCC OnLine Mad 9120*, wherein, the Division Bench after referring to the judgment of the Hon'ble Supreme Court in *High Court of Judicature at Bombay through its Registrar Vs. Udaysingh* reported in *(1997) 5 SCC 129*, concluded that the power of interference with the decision of the High



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Court is very limited and judicial review is only meant to ensure that the conclusion which has been reached is based on semblance of evidence.

Very same view was also reiterated by another Division Bench of this Court in ***G.Raja Vs. Government of Tamil Nadu represented by Chief Secretary*** made in ***W.P.No.18236 of 2022*** as well as in ***Dr.K.Ramanathan Vs. Registrar General of Madras High Court*** made in ***W.P.No.20950 of 2022***.

15. We have considered the submissions of Mr.Gunasekar as well as the learned counsel for the 2nd respondent Mr.Karthik Ranganathan.

16. The question that arises is the scope of judicial review in such matters. As pointed out in ***Ram Murti Yadav Vs. State of U.P. supra*** the scope of judicial review is very very limited and the same cannot extend to the Court substituting its own opinion for the opinion of the disciplinary Authority.

17. The fact that there were certain complaints against the petitioner is not in dispute. The fact that the very valuable properties were acquired



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by the wife of the petitioner during the time when the petitioner was actually in service as judicial officer is also not in dispute. The petitioner tries to take shelter under Explanation to Rule 7 of the Tamil Nadu Government Servants' Conduct Rules,1973.

18. This argument of the petitioner overlooks the fact that the petitioner is a judicial officer and he is bound to obey the circulars and the orders issued by the High Court. The circular issued by the High Court in ROC.No.2548/96/C2 dated 01.04.1997 requires the officers to inform the High Court of acquisitions made by the family members. This cannot be said to be in derogation of Explanation to Rule 7. It is only an additional requirement. The petitioner does not deny the fact that his wife has purchased properties. It is also noted that there are some un-explained lump sum deposits in his salary account. These facts were taken into account by the Administrative Committee consisting of the first seven Judges of this Court and the Committee in its wisdom decided to compulsorily retire / not to continue the services of the petitioner, since it won't be in public interest to do so. The said decision of the Administrative Committee was confirmed



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by the Full Court.

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19. The claim of the petitioner is that directives issued by the Government that are to be followed in matters of compulsory retirement were not followed in the case on hand. We do not think it is open to the petitioner, who is a judicial officer to contend that he should be treated on par with other Government servants. The Hon'ble Supreme Court even in ***Ram Murti Yadav Vs. State of U.P. supra*** has pointed out that the judicial officers are more accountable and the yardsticks to be adopted shall be more stricter than the other employees. In this context, the Hon'ble Supreme Court observed as follows in paragraph No.14,

14.A person entering the judicial service no doubt has career aspirations including promotions. An order of compulsory retirement undoubtedly affects the career aspirations. Having said so, we must also sound a caution that judicial service is not like any other service. A person discharging judicial duties acts on behalf of the State in discharge of its sovereign functions. Dispensation of justice is not only an onerous duty but has been considered as akin to discharge of a pious duty, and therefore, is a very serious



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matter. The standards of probity, conduct, integrity that may be relevant for discharge of duties by a careerist in another job cannot be the same for a judicial officer. A Judge holds the office of a public trust. Impeccable integrity, unimpeachable independence with moral values embodied to the core are absolute imperatives which brooks no compromise. A Judge is the pillar of the entire justice system and the public has a right to demand virtually irreproachable conduct from anyone performing a judicial function. Judges must strive for the highest standards of integrity in both their professional and personal lives.

20. It was also held in the very same decision that principles of natural Justice would also not apply to a case of compulsory retirement. From the pronouncements of the Hon'ble Supreme Court and this Court referred to *supra*, a very narrow window is available to the petitioner to challenge the order of compulsory retirement and his challenge was on three grounds.

→ The first ground is regarding the circular dated 01.04.1997, which, according to him, over reaches the Explanation to Rule 7



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of the Tamil Nadu Government Servants' Conduct Rules, 1973.

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→ The second is that the compulsory retirement is based on the adverse remarks made on 07.07.2021 and the same was done before communicating the adverse remarks to him and

→ The third contention is that the guidelines issued by the State Government were not followed.

21. We do not think any of these grounds are available to the petitioner. As far as the first contention is concerned, as we have already pointed out the circular issued by the High Court is binding on the petitioner and the petitioner cannot contend that the High Court cannot seek certain particulars from the members of the District Judiciary. Here again, the petitioner wants to be treated on par with other ordinary Government servants. As has been pointed out by the Hon'ble Supreme Court in **Ram Murti Yadav Vs. State of U.P. supra**, a higher degree of probity and integrity is required from the judicial officers. It is only to secure such higher degree of probity and integrity, the High Court had thought it fit to require judicial officers to provide information of acquisition of assets by



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their family members, even though it is out of their own funds.

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22. As regards the second contention, we have already found that the resolution of the Full Court precedes the adverse remarks made in the annual confidential report. Once it is found that the adverse remarks were not the basis for the order of compulsory retirement, the contention that the petitioner was not given an opportunity to have the adverse remarks expunged cannot be sustained.

23. On the third contention viz., non-adherence to the guidelines issued by the State Government, the High Court has formulated its own procedure in matters of compulsory retirement and the Administrative Committee consisting of seven senior Judges of this Court assessed the materials available and have come to the conclusion that continuance of the petitioner will not be in public interest. Unless it is shown that such material was totally irrelevant or that the decision is tainted and malice, which is not the case of the petitioner, the decision cannot be interfered with.

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24. We do not see any merit in the Writ Petition. The Writ Petition therefore, fails and it is accordingly **dismissed**. No costs.

(R.SUBRAMANIAN, J.) (G.ARUL MURUGAN, J.)
21.02.2025

dsa

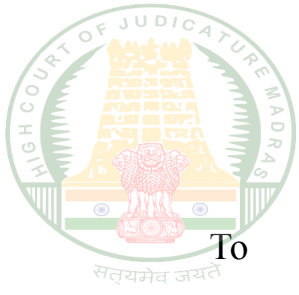
Index : Yes

Internet : Yes

Neutral Citation : Yes

Speaking order

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To

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1. The Chief Secretary,
State of Tamil Nadu,
Public (Special - A) Department,
Secretariat Building,
Fort St. George,
Chennai, Tamil Nadu - 600 009.

2. The Registrar General,
Madras High Court,
Parry Corner,
George Town,
Chennai, Tamil Nadu - 600 104.



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and
C.KUMARAPPAN, J.

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