IN THE HIGH COURT OF DELHI AT NEW DELHI

+WP(C) No.2494/2003

Date of Decision: 03.05.2008

# Director General, Indian Council of Agricultural Research	.....Petitioner
!	Through: Mr.B.S. Mor
Versus	
$Shakti Teivedi	.....Respondent
^	Through Dr.Shaymla Pappu, Senior Advocate with Mr.S.C. Luthra

CORAM :-
***THE HON'BLE MR.JUSTICE A.K.SIKRI**
THE HON'BLE MR. JUSTICE VIPIN SANGHI

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

VIPIN SANGHI, J.
:

1. The petitioner herein, namely, Indian Council of Agricultural Research (in short the 'ICAR'), resorted to the provisions of Fundamental Rule 56(j) and took the action of retiring the respondent herein compulsorily from service vide orders dated 4.1.1990. The respondent challenged this action of the petitioner in the Central Administrative Tribunal (hereinafter referred to as the 'Tribunal') by

means of an application filed under Section 19 of the Administrative Tribunals Act, 1985, which was registered as OA No.2215/90. The learned Tribunal disposed of the said application vide orders dated 31.7.1997 directing the petitioner to re-consider the representation of the respondent herein against his premature release. The representation of the petitioner was accordingly reconsidered and dismissed. The respondent approached the Tribunal again in April 2001 in the form of OA No.1062/2001. He has succeeded this time inasmuch as, the learned Tribunal vide its judgment dated 26.9.2002 has allowed the said application of the respondent herein and quashed the orders dated 4.1.1990 retiring the respondent compulsorily from service. Feeling aggrieved, ICAR has preferred this petition under Article 226 of the Constitution of India.

2. The basic facts of the matter, in so far as service career of the respondent is concerned, are not in dispute and therefore, we will take note of those facts which have a bearing on the issue: the date of birth of the respondent is 5.1.1936. He entered into the service of the petitioner in the year 1963. For the years 1985-87, adverse remarks in respect of the respondent were recorded in his Annual Confidential Report (ACR) and were communicated to him in December, 1988. On 5.5.1987 he was even placed under suspension

alleging his involvement in a criminal case. While he was under suspension, his case for compulsory retirement was considered by a committee which recommended his compulsory retirement under FR 56(j) and consequently, he was retired from service with effect from 4.1.1990. The respondent herein submitted his representations dated 19.1.1990 and 27.2.1990 against the order of compulsory retirement. After consideration of these representations same were rejected and he was informed that the competent authority had taken a decision not to interfere with the orders dated 4.1.1990, which was communicated to him vide memo dated 11.4.1990. At this stage, the respondent approached the Tribunal and filed OA No.2215/1990 against the order of compulsory retirement. This was disposed of vide orders dated 31.7.1997. Though the Tribunal did not interfere with the impugned order of retirement dated 4.1.1990, at the same time the OA was partly allowed by quashing the decision contained in memo dated 11.4.1990 whereby representation of the respondent was rejected against the order of compulsory retirement. Direction was also given to the petitioners herein to reconsider the representation of the respondent by a Representation Committee constituted in accordance with the rules and instructions on the subject and thereafter, dispose of the representations of the

respondent after giving him a reasonable opportunity of being heard in person. He was also given liberty to raise additional grounds, which were raised in the OA, but were contained in his representations. The petitioners accepted that order. However, the respondent did not feel satisfied with the aforesaid directions and thus, filed civil writ in this Court against the orders dated 31.7.1997. This writ petition was, however, dismissed. In these circumstances, acting on the directions issued by the Tribunal a Representation Committee was constituted, which held its meetings on 9.3.1999 and 16.3.1999. The respondent appeared before the Representation Committee and made his submissions. The said Representation Committee, however, came to the conclusion that since the ACRs of the respondent had been uniformally 'average' or at the highest 'good' for some years, and further that in the last five years he had earned average reports for 4 years and only one ACR had been 'very good/good', the decision to compulsorily retire him should be maintained. The discussion of the said Committee is contained in the order dated 26.3.1990 whereby the respondent's representation was rejected again. The relevant portion of the said order is reproduced below:-

> "4. Accordingly, a Representation Committee was constituted with nomination from Minister

for State for Agriculture and the Cabinet Secretary. The Representation Committee met on 9th March 1999. Shri Shakti Trivedi was given a chance to present his case before the Representation Committee on 9.3.99. All the official records were presented before the Committee and it was decided by the Committee that next meeting may be held on 15th March 1999 to take a decision in the instant case. The second meeting could not be held on 15th March 1999 due to non-availability of one of the members. The second and final meeting of the Representation Committee was held on 16th March 1999. The Committee after going through all the records stated "the applicant had stated that his case was taken up for review at 54 years and CRs of 1985 and 1986 were taken into account and that is not correct. He also mentioned that another ground for his compulsory retirement, i.e. his involvement in a criminal case is no longer valid because he has already been acquitted by the court in 1994. The Committee feels that though the review should have been done in time, there is no bar in taking up the review ever after 50 years provided the CRs of the period only upto his age of attaining 50, is taken into account for arriving at the decision. It is seen from the proceedings of the review committee held on 23.11.89 that his CRs upto the years 1985-86 were taken into consideration. Shri Trivedi was born on 5.1.1936 and hence his CRs upto 1985 should have been taken into account while arriving at a decision. Except for a few years, the CRs of Shri Trivedi, have been uniformally 'Average' or maximum 'good'. The last five years CRs i.e. from 1980 to 1985, four years have been 'Average' i.e. from 1981-1985 and only one has been 'Very Good/Good'. In fact, the same reporting officer who have given him very good in 1980 has been giving him 'Average' in subsequent years. As the function of review at the age of 50/55 years is basically to remove the

> deadwood from the Government, the lackluster performance of Shri Trivedi except for few years during his service career seems to have been done fairly and impartially taking the overall picture into account. His acquittal subsequently in a criminal case does not effect our decision in the case. The Representation Committee sees no reason to interfere in this decision."
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> 5. The proceedings of the Representation Committee were put up to the Minister of State for Agriculture for passing final orders as per the rules and instructions on the subject. Minister of State for Agriculture has given its approval to the proceedings of the Representation Committee wherein it has been decided that the decision of the review committee to prematurely retire Shri Trivedi under the provisions of FR 56(j) was in order."

3. As pointed out in the beginning, the respondent challenged this order by filing another OA being OA No.1062/2001, which has been allowed by the Tribunal vide its impugned decision dated 26.9.2002. A reading of the said judgment of the Tribunal would reveal that the Tribunal noticed the following irregularities committed by the petitioners herein in prematurely retiring the respondent vide impugned order dated 4.1.1990:-

> "(i) The aforesaid provisions of FR 56(j) and Para II (i) of the Appendix 10 of CCS(Pension) Rules, 1972 prescribes the time schedule to review the cases of premature retirement. The date of birth of the applicant being 4.1.1936, he was to complete 50 years on 4.1.1986 and review for premature retirement ought to have been done in July-September, 1985 by the

Screening Committee but in applicant's case, review was done after 4 years of due date.

(ii) Again as per FR 56(j), the appropriate authority can retire a government servant either by giving him a notice of not less than 3 months in writing or three months' pay and allowances in lieu of such notice. Admittedly, in the instant case, neither any notice of three months was given to the applicant nor his salary for three months was paid to him simultaneously. Thus, the order of compulsory retirement is faulted.

(iii) The representation committee erred in holding that there was no bar in taking up the review even after 50 years. As per rules, if no review had been done before 50 years of age by the government, an employee gets a further lease of 5 years and the next review can only be done at the age of 55 years and not at the age of 54 years as has been done in the case of applicant.

(iv) Para II(3) (c) of OM dated 5.1.1978 issued by MHA contains instructions relating to premature retirement which reads as follows:-

> "While the entire service record of an officer should be considered at the time of review, no employee should ordinarily be retired on grounds of ineffectiveness if his service during the preceding 5 years, or where he has been promoted to a higher post during that 5 years' period, his service in the highest post, has been found satisfactory."

Admittedly, the applicant was promoted from grade T-7 to the grade T-8 w.e.f. 1.1.84 on the basis of his performance from 1.1.79 to 31.12.83. If his performance was unsatisfactory, he could not have been

promoted on 1.1.84. Therefore, having regard to the instructions contained in para II (3) (c) mentioned above, the applicant could not have been retired prematurely.

(v) In the counter reply filed by the respondent to applicant's earlier OA 2215/1990, it was stated that "the applicant's compulsory retirement has been recommended by the Review Committee on the basis of his performance after taking into consideration his CRs and also keeping in view the fact he is involved in a criminal case of moral turpitude."

Though there is no bar to institute disciplinary proceedings on the basis of criminal charge, respondent chose to invoke FR 56(j) on the above basis, when the fact remains that on the basis of the same performance the applicant was recommended for promotion to the grade of T-8. Thus, there is no doubt that the respondent has adopted short cut method to prematurely retire the applicant at the age of 54."

4. It is clear from the above that the main reasons, which swayed the Tribunal in quashing the order, are:

(a) Though the respondent had completed 50 years of service on 4.1.1986, the review for premature retirement should have been at that time but it was done after 4 years of the said 'due date' and therefore, the same was bad in law. The Tribunal opined that once review is not undertaken at the age of 50 years, the government servant gets further lease of five years and such a review could be done only at the age of 55 years.

(b) Three months' notice in writing or pay and allowances in lieu thereof was to be given simultaneously with the order of premature retirement, which was not done.

(c) The respondent was promoted from Grade T-7 to T-8 with effect from 1.1.1984 and therefore, his performance could not have been treated as unsatisfactory and thus, in view of instructions contained in part II (3)(c) of OM dated 5.1.1978 as per which, entire service record of the officer is to be considered, the respondent could not have been retired prematurely. Further, the petitioners had adopted short cut method to prematurely retire him instead of instituting disciplinary proceedings on the basis of criminal charge.

5. Learned counsel for the petitioners assailed the aforesaid reasoning. His submission was that there was no bar in undertaking this review at the age of 54 years and the observations of the Tribunal that if the review for the purpose of compulsory retirement was not done at the age of 50 years, the government employee automatically gets lease of life upto 55 years was totally erroneously. He also submits that, admittedly, three months' pay and allowances was given in lieu of notice, which was even encashed by the respondent and therefore, the order did not suffer from any such illegality, as held by

the Tribunal and it was not necessary that such notice/pay has to be given simultaneously with the order of compulsory retirement. It was also argued that OM dated 5.1.1978 was wrongly interpreted and invoked inasmuch as, the respondent was promoted with effect from 1.1.1984 and he was compulsorily retired on 4.1.1990, i.e. after six years, while on the other hand the OM dated 5.1.1978 only mandated that if a person has been promoted to a higher post during the preceding five years, in that case his service record for last five years is to be seen and he is not to be retired if the same is found satisfactory, which was not the case here. It was also argued that the involvement in a criminal case was only an additional ground which the review committee took into consideration and there was no basis for arriving at the conclusion that it was a short cut adopted by the petitioners to prematurely retire him rather than instituting disciplinary proceedings against the respondent.

6. Dr.Shaymla Pappu, learned senior counsel for the respondent, on the other hand, supported the judgment of the Tribunal by stressing that the irregularities found by the Tribunal were perfectly in order and there was no force in any of the submissions made by the learned counsel for the petitioner. In this behalf, she referred to the judgment of the Supreme Court in the case of *State of U.P.* v.

Chandra Mohan, AIR 1977 SC 2411 wherein it was held that the Government instructions on the subject of compulsory retirement and prescribing time schedule of 50/55 years to undertake the review of cases of the employees, who are to be compulsorily retired, is to be strictly followed. She also referred to the judgment of the Supreme Court in the case of *M. Paul Anthony* v. *Bharat Gold Mines Ltd.*, (1999) 3 SCC 679. She submitted that the petitioners in their reply to OA had also clearly stated that the respondent was retired keeping in view the fact that he was involved in a criminal case of moral turpitude and the Tribunal rightly gave this as a ground to quash the impugned order following the judgment of the Supreme Court in the case of *State of Gujarat* v. *Umesh Bhai M. Patel*, (2001) SCC 314. Referring to the judgment of the Apex Court in *Union of India* v. *R.C. Mishra*, (2003) 9 SCC 217, learned senior counsel argued that as the respondent was promoted to higher rank with effect from 1.1.1984, there should have been an attempt made by the petitioner to retain the respondent in lower post even if his work was not found exemplary on higher post and therefore, the order of compulsory retirement was bad even on this ground as no such attempt was made.

7. We have already taken note of, at the earlier stage, the reasons which prevailed with the learned Tribunal in quashing the order of compulsory retirement. We would proceed to discuss the validity of these reasons in the same order in which we have noted.

8. The first reason given by the Tribunal was that the respondent completed 50 years of service on 4.1.1986 but the review for premature retirement was not taken done at that time and it was, in fact, done four years thereafter and as such, the same is bad in law. We are afraid that this reason given by the Tribunal is not sustainable in law. There is no such principle of law that the consideration under Section 56(j) of the Fundamental Rules has to take place only at the stage of 50/55 years. One can, for this purpose, usefully refer to the judgment of the Apex Court in *Government of Tamil Nadu* v. *P.A.Manickam*, AIR 1996 SC 2250, wherein it was opined that the screening can be done after the age of 50 years, and it is not necessary that the record should be examined six month before attaining the age of 50 years. The Apex Court made following pertinent observations:

> "The High Court posed the question: what is the effect of not referring the matter of his compulsory retirement to the review committee six months before the employee attains the age of 50 years or completes 25

years of service. It held that there was a duty cast on the heads of departments to consider every one of the cases of employees who were due for review in accordance with the instructions and, in such circumstances it shall be presumed that it an officer's name had not been sent up to the review committee, the Heads of Departments and the Government considered that there were no grounds for sending up the proposal to the review committee in respect of that officer….We are, therefore, of the opinion that if an officer's name who is due to attain the age of 50 years or has completed 25 years of service had not been sent to the review committee it shall be presumed that there was no ground for sending his name for consideration for compulsory retirement and that it is in those circumstances the competent authority had not referred the matter to the review committee.

8. The High Court went on to say that "it may even be presumed that there was an assessment in favour of further continuance of the officer and any review subsequent to the attainment of 50 years of age shall be considered to be a second review….

9. On a plain reading of the rule and the instructions, the view taken by the High Court cannot be sustained. The rule permits the appropriate authority to retire any Government servant after he has attained the age of 50 years or after he has completed 25 years of qualifying service. The rule prescribes a starting point, which is the attaining of the age of 50 years or the completion of 25 years of service, but it does not prescribe a terminus ad quern. It is, therefore, open to the appropriate

> authority under the rule to consider the case of a Government servant for premature retirement at any time after the aforementioned starting points."

9. The Division Bench of the Punjab and Haryana High Court in the case of *Roshan Lal* v. *State of Haryana & Ors.* (1993) 4 SLR 26 clearly laid down that it cannot be said that once the Government decides to allow a government employee to continue in service beyond the age of 55 years, it cannot review its order and retire the employee before attaining the age of 58 years.

10. The principle of law, which has come to be established by the Apex Court, is that such a review for premature retirement can take place after the concerned employee has attained the age of 50 years. It is not correct to state that once it is not done at the age of 50 years, the Government is debarred from undertaking this review thereafter till the employee attains the age of 55 years. The Government of India, Ministry of Home Affairs, has issued instructions regarding premature retirement vide its office memo No.25013/14/77-Estt.(A) dated 5.1.1978. This office memo lays down comprehensive instructions by consolidating all the instructions on the subject. Rule position, as contained in FR 56(j), is stipulated in this O.M. in the following manner:-

"**I. Rule Position**

(1) In accordance with the provisions of Fundamental Rule 56(j) the appropriate authority has the absolute right to retire, if it is necessary to do so in public interest, any Government employee as follows:-

(i) If he is in Group 'A' or 'B' service or post in a substantive, quasi-permanent or temporary capacity and had entered Government service before attaining the age of 35 years, **after he has attained the age of 50 years;**

(ii) In any other case, after he has attained the age of 55 years provided that in the case of a Group 'D' official, such action can b taken if he entered service after 23rd July, 1966.
In other words, a Government servant belonging to Groups 'A' and 'B' who has entered Government service after attaining the age of 35 years, and officers belonging to Groups 'C' and 'D' can be prematurely retired after they have attained the age of 55 years with the exception of Group 'A' officials, who entered service on or before 23rd July, 1966.

(2) In addition, a Government servant in Group 'C' service or post who is not governed by any pension rules, can also be retired after he has completed thirty years' service, under F.R. 56(j).

(3) Identical provisions exist in Article 549 of the Civil Service Regulations.

(4) Provisions also exist in Rule 48 of the CCS (Pension) Rules, 1972, for the retirement of a Government employee by giving him three months' notice, if it is necessary to do so in public interest, after he has completed 30 years of qualifying service for pension. In other words, a Government employee who may belong to Groups 'A', 'B', 'C' or 'D' can be prematurely retired irrespective of the age at the appropriate time, after he has completed 30 years of qualifying service.

(5) Provisions exist in the relevant rules which confer reciprocal right on Government employee to seek voluntary retirement after he has attained the age of 50/55 years or has completed 30 years of service, as the case may be."

11. The portion highlighted above makes it abundantly clear that the case of an employee under FR 56(j) can be considered "after" he has attained the age of 50 years. The language is not that it is to be done "on" attaining the age of 50 years. This O.M. also stipulates the Criteria, Procedure and Guidelines for undertaking such a review. Clause (d) under the aforesaid caption needs to be re-produced at this stage:-

> (d) No employee should ordinarily be retired on ground of ineffectiveness, if, in any event, he would be retiring on superannuation within a period of one year from the date of consideration of his case."

12. It appears from clause (d) of the aforesaid OM that ordinarily a person is not to be retired within a period of one year from the date of consideration of his case. The word 'ordinarily' would suggest that even that is not the absolute bar. On the contrary, the Apex Court in *Haryana State Electricity Board* v. *K.C. Gambhir*, AIR 1997 SC 2403 affirmed the order of compulsory retirement which was passed nine months before superannuation. It was held that fair action was taken by the department in view of the repeated charges of misconduct against the incumbent.

13. The petitioners have explained that the respondent's case for premature retirement was considered in December 1988 along with 11 other cases and cases were processed thereafter and in November 1989, all 12 cases were separately considered by the Review Committee on the basis of which, order dated 5.1.1990 was passed in so far as the respondent is concerned. It is stated that some time the review is not undertaken exactly on the completion of 50/55 years due to many administrative reasons but that does not mean that review cannot be done after the time schedule. The guidelines are mandatory and these are to be read as a whole along with the rules.

14. The second ground given by the Tribunal in support of its opinion that the order of compulsory retirement is bad in law was that three months' notice in writing or pay and allowances in lieu thereof was not given simultaneously along with the order of premature retirement. It is not in dispute that in the present case, the respondent was given three months' pay in lieu of notice, though it did not happen simultaneously with the serving of notice of retirement. The Tribunal, while holding that non-payment of three months' pay and allowances along with the order of compulsory retirement had vitiated the order, relied upon the judgment of Madras Bench of the Tribunal in *A.Muthuswamy and Ors* v. *The Divisional Personnel Officer, Southern Railway, Madurai and others*, (1997) 1 SLR 541. However, that may not be a position in law in view of contrary principle enunciated by the Supreme Court. In *State of Orissa* v. *Balakrushma Sathpathy*, AIR 1994 SC 1127, the short question was whether deduction of the income-tax at source while making payment of three months pay and allowances is an infraction of Rule 71(a) which invalidates the order of compulsory retirement. The Apex Court was of the view that it does not invalidates the order of compulsory retirement and observed as under:

> "The Rule requires three months prior notice to be given or payment of three

> months pay and allowances in lieu of such notice. In other words, the alternative mode prescribed of payment of the amount in lieu of three months notice, when adopted, entitles the Government servant to get that amount, but the validity of the order of compulsory retirement does not depend on its prior full payment as a pre-requisite. The only right of the Government servant under such an order is to get the amount of three months pay and allowances in lieu of such notice, and no more. This is the manner in which similar provisions have been construed in Raj Kumar v. Union of India AIR 1975 SC 1116 and Union of India v. Arun Kumar Roy AIR 1986 SC 737."

15. Likewise, in *State of A.P.* v. *T.K.Seshadri & Anr.*, (2001) 9 SCC 35, the Apex Court following the afore-said judgment held that the High Court was not justified in setting aside the order of compulsory retirement since the validity of the said order does not depend upon prior full payment of 3 months' salary as a prerequisite. The pertinent observation thereof reads as under:

> "The decision on which the High Court reled has been overruled by a Bench of three Judges of this Court in the case of *A.L. Ahuja* v. *Union of India* (1987) 3 SCC 604. The view taken by the High Court on the question of payment of three months' salary as a condition precedent is also contrary to a decision of this Court in *State of Orissa* v. *Balakrushna Satpathy* 1995 Supp (4) SCC 511 where this Court has held that eth

> validity of an order of compulsory retirement does not depend on prior full payment of three months' salary as a prerequisite. The only right of the government servant under such an order is to get the amount of three months' pay and allowances in lieu of such notice."

16. The third reason given by the Tribunal for quashing the impugned order of compulsory retirement was that the respondent herein was promoted from Grade T-7 to T-8 with effect from 1.1.1984 and on this promotion his performance for the period prior thereto could not have been treated as unsatisfactory. To this extent, the Tribunal may be correct as this is the legal position settled by the Supreme Court in number of cases and purpose would be served in referring to one such case, namely, *Union of India and others* v. *R.C. Mishra*, (2003) 9 SCC 217. However, we find that the Review Committee, apart from considering the overall record of the respondent herein, specifically took into consideration the last five confidential reports, i.e. from 1980 to 1985 and found that for four years, the respondent's grading was 'Average' and only for one year he had been rated as 'Very Good/Good'. This argument of the learned counsel for the petitioner loses sight of the fact that notwithstanding the said ACRs the respondent was promoted to the next higher rank with effect from 1.1.1984. It is, thus, clear that on the basis of the

ACRs for the past period up to 1.1.1984, i.e. till 1983, the respondent was found fit for promotion to the higher rank. Thereafter, only the ACR for the year 1984, 1985 and 1986 remained to be considered. However, for the years 1985 and 1986 the respondent was given adverse remarks in his confidential report, which were communicated to him. Even for the year 1987, adverse remarks were given, though ACR for this period was not under consideration by the Committee. Another fact which is important is that the respondent was placed under suspension on 5.5.1987 alleging his involvement in a criminal case. It was at that stage his case for compulsory retirement was considered by a Committee which recommended his retirement with effect from 4.1.1990. Thus, even if the record prior to the date of promotion, i.e. 1.1.1984 is to be ignored, the order of compulsory retirement on the basis of immediate past record which reflected adverse remarks as well as involvement of the respondent in a criminal case for which he was facing suspension would be very material and relevant.

17. The Supreme Court has held in the case of *Brij Behari Lal Agarwal* v. *High Court of M.P.*, (1981) 1 SCC 490 that while considering the cases of compulsory retirement under FR 56(j), the immediate past record would not only be of direct relevance but also of utmost importance

(See also: *State of Uttar Pradesh* v. *Vijay Kumar Jain*, AIR 2002 SC 1345). Going by these considerations it does not appear that the exercise done by the Review Committee was, in any way, improper.

18. We also fail to appreciate as to how the Tribunal, in view of the aforesaid record, could come to the conclusion that resort to compulsory retirement was taken as a short-cut method for instituting disciplinary proceedings on the basis of criminal charge. The involvement of the respondent in the criminal case was only one of the factors. Once a criminal case was pending, it was not necessary at that stage to hold the inquiry. Had that been the sole consideration for prematurely retiring the respondent, there could have been some force in accepting such a contention of the respondent by the Tribunal. However, more than that it was the adverse entries in the ACR of the respondent for the relevant period and overall average service record because of which he was treated as "deadwood" by the Review Committee. It is trite law that judicial review is permissible only if the particular action lacks fairness or that there is material irregularity, procedural impropriety or manifest illegality. It is the decision-making process and not the decision itself on which judicial review is undertaken. While considering these aspects, courts are not to sit as appellate authorities and substitute

their view for that of the committee which decided to compulsorily retire the respondent. Once it is found that there was material on the record on the basis of which such a conclusion could have been arrived at by the competent authority, the courts are not to interfere with the same either on the ground that the material was not sufficient or by analyzing material itself and taking the decision on merits as the court is not required to substitute its decision for that of the competent authority even if two views are possible. We also do not agree with the contention of the learned counsel for the petitioner that having regard to the judgment of *R.C. Mishra* (supra), efforts should have been made to retain the respondent in lower post. There was no necessity to undertake this exercise as even in the lower post the overall record of the respondent was not satisfactory enough which could entitle him to retain the said post. The upshot of the aforesaid discussion would be that we are not in agreement with the impugned judgment passed by the Tribunal. We accordingly allow this writ petition and set aside the said judgment.

(VIPIN SANGHI)
JUDGE

May 03, 2008
HP.

(A.K. SIKRI)
JUDGE