GAHC010088972020

# THE GAUHATI HIGH COURT
## (HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

**Case No. : WP(C)/2675/2020**

LEKHA PRIYA SAIKIA
W/O. SRI INDRA BORGOHAIN, PRESENT R/O. HAFLONG, LAKE VIEW ROAD, P.O. HAFLONG, DIST. DIMA HASAO, HAFLONG, ASSAM, PIN-788819.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, GENERAL ADMINISTRATIVE DEPTT. (B), DISPUR, JANATA BHAWAN, GUWAHATI-781006.

2:THE DY. COMMISSIONER

DIMA HASAO
DIST. DIMA HASAO
HAFLONG
PIN-788819.

3:THE SUB-DIVISIONAL OFFICER (CIVIL)

MAIBANG SUB-DIVISION
DIST. DIMA HASAO
HAFLONG
ASSAM
PIN-788819.

4:THE ADMINISTRATIVE OFFICER

OFFICE OF THE DY. COMMISSIONER
HAFLONG
DIST. DIMA HASAO
ASSAM

PIN-788819.

5:THE TREASURY OFFICER

HAFLONG
DIST. DIMA HASAO
ASSAM
PIN-788819

**Advocate for the Petitioner** : MR. B BARUAH

**Advocate for the Respondent** : MR. H. SHARMA

Linked Case : WP(C)/3533/2020

LEKHA PRIYA SAIKIA
W/O- SRI INDRA BORGOHAIN
PRESENTLY RESIDING AT GOVT. QUARTER
HAFLONG LAKE VIEW ROAD
P.O. HAFLONG
DIST.- DIMA HASAO
HAFLONG
ASSAM
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VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY COMM. AND SECY. TO THE GOVT. OF ASSAM
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JANATA BHAWAN
GHY-06

2:THE DY. COMMISSIONER
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DIST.- DIMA HASAO
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3:THE ADDL. DY. COMMISSIONER
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O/O THE DY. COMMISSIONER
HAFLONG
DIST.- DIMA HASAO
ASSAM
PIN- 788819
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Advocate for : MR B. BARUAH

Advocate for : MR. H. SHARMA

ASSAM appearing for THE STATE OF ASSAM AND 4 ORS.

**BEFORE**
**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**JUDGMENT AND ORDER (CAV)**

**Date : 25-04-2023**

Heard Mr. B. Baruah, the learned counsel appearing on behalf of the petitioner in both the writ petitions and Mr. H. Sharma, the learned Standing counsel appearing on behalf of the State of Assam.

2. The question involved in the instant writ petitions is as to whether the exercise of jurisdiction by the authority concerned under FR 56(b) of the Fundamental Rules and Subsidiary Rules as applicable to the State of Assam insofar as compulsorily retiring the petitioner is in public interest. For ascertaining the said dispute, it would be relevant to take note of the facts leading to the filing of both the writ petitions.

3. The petitioner herein was initially appointed in the year 1985 in the post of Junior Assistant under the Government of Assam in the Office of the Sub-Divisional Officer (Civil), Maibang in the District of Dima Hasao. Thereupon, the petitioner was promoted to the Post of Senior Assistant w.e.f. the date of joining i.e. on 14.07.2004. From a perusal of the writ petitions, it further transpires that on 13.12.2019, a communication was issued by the Deputy Commissioner, Dima Hasao i.e. the respondent No.2 herein wherein it was mentioned that in terms with the order dated 29.11.2019 issued by the respondent No.2, the petitioner was asked to go for voluntary retirement due to constant negligence of Government duties and irregularity in attending office. It was further mentioned that as per the norms, the petitioner would be released after 3 (three) months w.e.f. 01.12.2019. It further appears that the petitioner on 21.12.2019 submitted an application intimating the respondent No.2 that she has not been able to attend her duties regularly as she was in her sick bed suffering from Chronic Liver Disease and Nephropathy and was admitted in the Haflong Civil Hospital on 24.11.2019 and got discharged on 03.12.2019. Thereafter, the petitioner was again admitted for two days i.e. 13.12.2019 and 14.12.2019 for blood transfusion. It was also mentioned in the said application that the doctor of the petitioner adviced her for bed rest and proper medical attention. It further appears that on 26.12.2019, the respondent No.2 granted 30 days Earned Leave w.e.f. 01.11.2019 to 30.11.2019. It was further mentioned in the said order that the petitioner is likely to return to the post from which she proceeded on leave after its expiry and she would have continued to hold the post but for her proceeding on leave.

4. It is also relevant to take note of that on 13.12.2019 i.e. on the very

day on which the communication was issued by the Deputy Commissioner as referred to hereinabove thereby directing the petitioner to go on voluntary retirement, the petitioner submitted a representation stating inter alia that the same was not acceptable to the petitioner and requested the respondent No.2 to reconsider the same. To the said communication, the petitioner has also enclosed various medical documents. It further appears that on 03.02.2020, there is another order passed by the Deputy Commissioner paramateria to the contents of the communication dated 26.12.2019. Subsequent thereto, on 29.02.2020, the petitioner was released from service on the basis of the communication dated 13.12.2019 issued by the Deputy Commissioner on account of voluntary retirement by the Sub-Divisional Officer (Civil), Maibang i.e. the respondent No.3 herein. The petitioner immediately thereafter submitted a communication dated 04.03.2020 to the respondent No.3 seeking the status report on the matter of her release from the service from the post of Senior Assistant on voluntary retirement. The copy of the said communication was also forwarded to the respondent No.2. On the same date, the petitioner has also filed an application under the Right to Information Act, 2005 to the respondent No.3 seeking various information. The first information so sought for was as to whether the petitioner had applied for voluntary retirement from service during her service period and if it is in the affirmative, then to furnish the details of such application. The second information so sought for was as to whether the authority could impose the Voluntary Retirement upon the employee without her consent and if the said query was in the affirmative, then to furnish the details.

5. The Sub-Divisional Officer (Civil), i.e. the respondent No.3 forwarded

the said application to the Office of the Deputy Commissioner i.e. the respondent No.2 as the petitioner was working under the establishment of Deputy Commissioner, Dima Hasao District. Thereupon, the Deputy Commissioner instead of furnishing the reply, issued an order dated 25.03.2020 whereby in exercise of the powers under Fundamental Rules 56(b), the petitioner was released from service after three months from 13.12.2019 and the petitioner was compulsorily retired from service w.e.f. 29.02.2020 as per the Assam Fundamental Rules 56(b). This order dated 25.03.2020 is put to challenge by the petitioner in WP(C) No.2675/2020.

6. This Court vide an order dated 25.06.2020 issued notice making it returnable by 4 (four) weeks.

7. The record further reveals that pursuant to the compulsorily retirement of the petitioner vide the impugned order dated 25.03.2020, various notices were issued asking the petitioner to vacate the Government quarter. On account of the pressure being imposed upon the petitioner to vacate the Government quarter, WP(C) No.3533/2020 was filed challenging various notices thereby asking the petitioner to vacate the quarter and with a further prayer that the petitioner should be allowed to continue her accommodation/stay in the allotted residential quarter till the disposal of the WP(C) No.2675/2020.

8. It further appears from the records that this Court in WP(C) No.3533/2020 vide an order dated 22.09.2020 issued notice and till the next date of listing directed the respondent authorities not to take any coercive actions with regard to the vacation of the Government quarter which the petitioner was occupying.

9. It appears on records that the respondent No.2 had filed an affidavit-in-opposition in WP(C) No.2675/2020 on 05.08.2021. It is the specific stand of the respondent No.2 in paragraph No.4 that the petitioner was initially rendering her service with utmost satisfaction of her superior authorities. But after her promotion in the year 2004, her attitude of performing her duties changed. It was alleged that the petitioner often remained absent from her duties for several times for which she was asked to explain her fault. It was alleged that the petitioner never performed her duties with utmost satisfaction of her superior officers for which she was placed under suspension many times. It was further mentioned that there were several previous Deputy Commissioners who have made adverse remarks against the petitioner's performance and it was on account of her attitude which was beyond tolerable, she was released from service on compulsory retirement. Further to that, it was mentioned that on 14.03.2020, a corrigendum was issued to the communication dated 13.12.2019 i.e. the communication by which the petitioner was directed to go on voluntary retirement. In terms with the corrigendum which has enclosed as Annexure-1 to the affidavit-in-opposition, the term "Voluntary Retirement" was substituted by the word "Compulsory Retirement". The Deputy Commissioner i.e. the respondent No.2 further justified the order of compulsory retirement dated 25.03.2020 on the ground that the service received from the petitioner from 2004 to 2018 did not permit the respondent No.2 to reinstate her in the DC's amalgamated establishment.

10. To the said affidavit-in-opposition, the petitioner filed an affidavit-in-reply. In the affidavit-in-reply, the petitioner has denied that the petitioner remained absent from her duties for several times for which she was asked

to explain her faults. The petitioner also denied that she never performed her duties with utmost satisfaction of her superior authorities for which she was placed under suspension many times. There is also a denial that the petitioner was suspended many times however, it was admitted that on one occasion, the petitioner was put under suspension but on accepting her plausible explanation for remaining on leave, the department accepted her explanation and upon realizing have withdrawn the said suspension order. It was further stated in the affidavit-in-reply that the petitioner was never informed that several previous Deputy Commissioner made any adverse remarks against the petitioner. It was further stated in the affidavit-in-reply that the corrigendum dated 14.03.2020 was issued as an afterthought to fill up the lacuna. In one of the sub-paragraphs of paragraph No.5 of the said affidavit-in-reply, the petitioner further stated that the respondent No.2 for the first time has deliberately used the word drunken which the respondent No.2 has intentionally used to satisfy some of his personal dissatisfaction against the petitioner. It was alleged that the respondent No.2 did not have any right as well as satisfaction to use the said word that the petitioner remained in drunken state for which the respondent No.2 is bound to discharge her from Government duties. It was further stated in paragraph No.14 of the affidavit-in-reply that the demand notice was issued by the Chief Manager of the State Bank of India, Haflong Branch dated 21.04.2021 whereby the Bank had demanded payment of loan installments in regular intervals. However the petitioner could not pay her loan liabilities for the reason of the impugned order dated 25.03.2020 issued by the respondent No.2.

11. It further appears from the records that the matter was heard from

time to time. During the course of hearing, the learned counsel for the petitioner has submitted that as per the well settled principles of law, the authority concerned while passing the order of compulsory retirement has to take into account the entire service career of the petitioner. It was further submitted during the course of the hearing that the petitioner received "Good" and "Very Good" in her ACRs for the years 2005, 2006, 2007, 2009, 2014, 2016, 2017, 2019 and 2020. It was further submitted that as the ACRs of those relevant period was not taken into consideration, the order of compulsory retirement is punitive as it violates Article 311 of the Constitution. It was further submitted that if there was any misconduct for one or two years, it may be a case of misconduct requiring a Disciplinary Proceedings for dismissal of the petitioner in terms with the Assam Services (Disciplinary and Appeal) Rules, 1964, but the respondent authorities could not have exercised the powers under Rule FR 56(b) to compulsorily retire the petitioner.

12. On the other hand, Mr. H. Sharma, the learned Standing counsel appearing on behalf of the State respondents submitted that the service career of the petitioner since 2004, i.e. the year on which the petitioner was promoted, was taken into consideration in passing the impugned order of compulsory retirement. The learned Standing counsel for the respondents further submitted from the records so produced that the petitioner was suspended on various occasions. These aspects which were submitted by the learned Standing counsel for the respondents however could not be discerned from the affidavit-in-opposition filed by the respondent No.2. It was under such circumstances, this Court directed the State respondents to file an affidavit bringing on record such available materials so that the

petitioner could rebut to all such allegations, if so advised.

13. Accordingly, on 02.03.2023, an additional affidavit was filed by the respondent No.2. It was specifically mentioned in paragraph No.3 of the said additional affidavit that after the promotion of the petitioner in the year 2004, her attitude towards her duty changed. It was alleged that on account of her activities, the District Home Guards Commandant wrote a letter dated 12.11.2004 to the respondent No.2 stating that the petitioner frequently indulges in liquor during office hours and had not maintained the cash book from the month of September, 2004 although she withdrew funds from Nazir during that period. It was further alleged that the petitioner was in the habit of leaving office without permission. It was further stated that subsequent to the communication dated 12.11.2004, a Show Cause notice dated 19.11.2004 was issued to the petitioner with specific allegations that from 05.11.2004 to 12.11.2004, the petitioner was found heavily drunk in the office in spite of repeated verbal instructions not to do so. It was also alleged in the said Show Cause notice that the petitioner had not maintained cash book from September, 2004 though the petitioner had withdrawn the fund from Nazir during those periods. Further to the said allegations, it was also alleged in the said Show Cause notice that the petitioner had the habit of leaving office without any permission and the petitioner was charged with negligence and insubordination. It further appears that the petitioner thereupon submitted her reply which was not found to be satisfactory for which the disciplinary proceedings was initiated against her. In the enquiry so made, it was found that the petitioner was guilty of the charges leveled against her and the petitioner had also confessed to her guilt and apologized for the same. Under such circumstances, vide an order dated 10.04.2008,

taking into account that it was her first act of misconduct and the petitioner had apologized to the same, she was excused from the offence with a strong warning not to repeat such act failing which drastic action shall be taken against her without showing any reasons thereof.

14. It was further alleged in paragraph No.4 of the said additional affidavit that the petitioner remained absent from her duties since 16.10.2011 to 02.11.2011 and there was no application received from the petitioner regarding the leave etc. Under such circumstances, the respondent authorities had passed the pay cut order for the period of unauthorized leave w.e.f. 16.10.2011 to 02.11.2011 vide an order dated 02.11.2011. In paragraph No.5 of the said additional affidavit, it was also alleged that the petitioner though submitted an application praying for 3 (three) days Casual Leave w.e.f. 03.02.2012 to 05.02.2012 on the ground of domestic affairs but without such leave being granted, she left the Headquarter without prior permission from the competent authority. As unauthorized leave had become a regular phenomenon on the part of the petitioner, accordingly, a letter dated 16.02.2012 was issued whereby the petitioner was directed to reply within 48 hours otherwise disciplinary action would be initiated against her. However, the petitioner neither joined her duty on 06.02.2012 nor replied for which the petitioner was put under suspension vide an order dated 03.03.2012 pending drawal of Disciplinary Proceedings. Subsequent thereto, the petitioner submitted explanation dated 22.06.2012 praying for withdrawing her suspension order. Considering the petitioner's application, her suspension order dated 03.03.2012 was withdrawn and she was re-instated w.e.f. 09.07.2012 vide an order dated 11.07.2012 with a stern warning not to indulge in any such indiscipline in future in discharging her

duties as a Government servant. The petitioner was also directed vide the said letter to apply for Earned Leave formally for the period of her unauthorized absence. It was further stated in the additional affidavit that vide a communication dated 27.09.2013, the petitioner was again warned for her irregular attendance in the office thereby leaving urgent and time bound works unattended for days and thereby the petitioner was reminded to attend her duties regularly failing which she will be reverted to her original posting at Maibang.

15. Further to that, it has also been mentioned that on account of her unauthorized absence for certain period, a Show Cause notice dated 09.10.2018 was again issued to her and directed her to submit her written explanation by 15.10.2018 positively and as to why disciplinary action should not be initiated against her for such gross negligence of duties for a long period. However, the petitioner failed to submit her explanation within the stipulated period and accordingly, vide another letter dated 14.11.2018, the petitioner was directed to submit her reply within 3 (three) days on receipt of the said letter failing which disciplinary action would be initiated against her. The petitioner however did not respond to the said letter dated 14.11.2018 and accordingly, the petitioner was treated to be on unauthorized absence vide an order dated 14.12.2018 and it was directed that the petitioner was not entitled to pay and allowances during the said period of absence. It was submitted that all these factors were duly taken into consideration while passing the order dated 25.03.2020. It is relevant to take note of that all these orders which have been mentioned hereinabove were enclosed to the additional affidavit.

16. It further appears from the records that the petitioner thereupon filed an affidavit-in-reply. In the said affidavit-in-reply, the petitioner vaguely denied the statements made in paragraph Nos.3 and 4 of the additional affidavit. The allegations made in paragraph Nos. 5, 6 and 7 of the additional affidavit were also vaguely denied. In paragraph No.8 of the affidavit-in-reply to the additional affidavit, it was stated by the petitioner that the order of compulsory retirement was given retrospective effect which was not permissible. It was further stated that the purported order of compulsory retirement was passed by the respondent No.2 without considering the entire service period record, ignoring the good and very good in the petitioner's ACRs for the year 2005, 2006, 2007, 2009, 2014, 2016, 2017 and 2019 and these aspects were not taken into account by the authority to form a definite opinion for compulsory retirement and passed the order with oblique motive, on some personal dissatisfaction of the respondent No.2.

17. It is also relevant to take note of that in WP(C) No.3533/2020, the respondent No.2 has also filed an affidavit-in-opposition and there is also an affidavit-in-reply filed by the petitioner against the affidavit-in-opposition filed by the respondent No.2. Taking into account the limited prayer in the writ proceedings i.e. WP(C) No.3533/2020 and the outcome of the said writ petition would hinge upon the outcome of WP(C) No.2675/2020, this Court deems it relevant to deal with the details relating to WP(C) No.3533/2020 after dealing with the dispute as to whether the impugned order dated 25.03.2020 challenged in WP(C) No.2675/2020 is required to be interfered with.

18. I have heard the learned counsels for the parties and have perused

the materials on record.

19. This Court before dealing with the facts involved, deems it appropriate to deal with the scope of judicial review in respect of an order of compulsory retirement from service. In order to appreciate the scope, it is also necessary to take into account the object behind the compulsory retirement of a Government servant. The power to compulsorily retire a Government servant emanates from the doctrine of pleasure incorporated in Article 310 of the Constitution. The purpose behind the compulsory retirement is to weed out the dead wood in order to maintain efficiency in the service and also to dispense with the service of those whose integrity is doubtful so as to preserve purity in administration. Generally, speaking, the Service Rules provide for compulsory retirement of a Government servant on his/her completing certain number of years of service or attaining the prescribed age. In the case of a Government servants appointed in connection with the affairs of Government of Assam, FR 56(b) of the Fundamental Rules and Subsidiary Rules as applicable to the State of Assam stipulates that either the Government servant attains 50 years of age or has completed 25 years of service whichever is earlier. The service records of such Government servant is reviewed at that stage and a decision is taken whether he should be compulsorily retired or continued further in service. There is no leveling of a charge or imputation requiring an explanation from the Government servant. While misconduct and inefficiency are factors that enter into account where the order is one of dismissal or removal or of retirement, there is this difference that while in the case of retirement, they mainly furnish the background and the enquiry, if held, and there is no duty to hold an enquiry in the case of compulsory retirement in view of Explanation (f) to

Rule 7 of the Rules of 1964. However, enquiries may be held only for the purpose of the appropriate authority to arrive at an opinion as regards its subjecture satisfaction which forms the very basis of the order of compulsory retirement.

20. It is also relevant to take note of that a Government servant who is compulsorily retired does not lose any part of benefit that he has earned during his service and therefore, the pivotal difference between compulsory retirement and dismissal or removal is that the former does not involve penal consequences whereas the latter does.

21. It may not be out of place to take note of that if the order of compulsory retirement casts a stigma on the Government servant in the sense that it contains a statement casting aspersion on his/her conduct of character, then the Court would treat that order as an order of punishment attracting provisions of Article 311(2) of the Constitution. The reason is that as a charge or imputation is made, the condition for passing an order, the Court would infer therefrom that the real intention of the Government was to punish the Government servant on the basis of the charge or imputation and not to exercise the power of compulsory retirement. However, mere reference to the rule, even if it mentions grounds for compulsory retirement, cannot be regarded as sufficient for treating the order of compulsory retirement as an order of punishment. In such a case, the order can be said to have been passed in terms with the rule and therefore a different intention cannot be inferred. So also, if the statement in the order refers only to the assessment of his/her work and does not at the same time cast an aspersion on the conduct or character of the Government servant, then it

will not be proper to hold that the order of compulsory retirement is in reality an order of punishment. Whether the statement in the order is stigmatic or not, will have to be judged by adopting the test how a reasonable person would read or understand it.

22. In the backdrop of the above object behind compulsory retirement and its requisites, let this Court understand the scope of judicial review insofar as an order of compulsory retirement from service. In the case of ***Shyam Lal Vs. State of Uttar Pradesh*** *reported in* ***AIR 1954 SC 369***, the Constitution Bench of the Supreme Court held that an order of compulsory retirement is not a punishment nor there is any stigma attached to it. In the said judgment, it was observed by the Constitution Bench that there is no element of charge or imputation in the case of compulsory retirement. The two requirement for compulsory retirement are that the officers have completed 25 years of service and it is in public interest to dispense with his further service. It was further observed that it is true that this power of compulsory retirement may be used when the authority exercising this power cannot substantiate the misconduct which may be the real cause for taking the action but what is important to note is that the direction in the last sentence of Note 1 of Article 465A makes it clear that an imputation or charge is not in terms made a condition for exercise of power. In other words, a compulsory retirement as observed by the Constitution Bench has no stigma or implication of misbehavior or incapacity. Another Constitution Bench in the case of ***T.V. Shivacharana Singh Vs. State of Mysore*** *reported in* ***AIR 1965 SC 280*** observed that whether the petitioner's retirement was in public interest or not is a matter for the State Government to consider and as to whether the plea that the order is arbitrary and illegal, it is impossible to hold on the

materials placed by the petitioner before the Constitution Bench that the said order suffers from the vice of mala fide.

23. Subsequent thereto, a two Judges Bench of the Supreme Court in the case of ***Union of India Vs. Col. J. N. Sinha and Another*** reported in ***(1970) 2 SCC 458*** observed that an order of compulsory retirement made under FR 56(j) of the Fundamental Rules as applicable to the Central Government employees does not involve any civil consequences and that the employee retired thereunder does not lose any of the rights acquired by him before retirement and that the said rule is not intended for taking any penal action against the Government servant. It was pointed out by the Supreme Court in the said judgment that the said Rule embodies one of the facets of the pleasure doctrine embodied in Article 310 of the Constitution and the rule holds the balance between the rights of the individual Government servant and the interests of the public. As explained, the rule was intended to enable the Government to energize its machinery and to make it efficient by compulsorily retiring those who in its opinion should not be there in public interest. It was also held that the rules of natural justice are not attracted in such a case. It was observed that if the appropriate authority forms the requisite opinion bona fide, its opinion cannot be challenged before the Courts though it is open to an aggrieved party to contend that the requisite opinion has not been formed or it is based on collateral grounds or that it is in arbitrary decision. It is also relevant to take note of another very relevant aspect of the matter which was observed by the Supreme Court in the said judgment to the effect that a compulsory retirement is bound to have some adverse affect on the Government servant who is compulsorily retired. But it was observed that as the Rule provides that such retirement can be made

only after the officer attains the prescribed age, a compulsorily retired Government servant does not lose any of the benefits earned by him till the age of his retirement. Three months notice is provided so as to enable him/her to find out other suitable employment. Paragraph Nos. 8, 9 and 10 of the said judgment of the Supreme Court in the case of ***J. N. Sinha (supra)*** being relevant are quoted hereinbelow:

> "***8.*** *Fundamental Rule 56(i) in terms does not require that any opportunity should be given to the concerned government servant to show cause against his compulsory retirement. A government servant serving under the Union of India holds his office at the pleasure of the President as provided in Article 310 of the Constitution. But this "pleasure" doctrine is subject to the rules or law made under Article 309 as well as to the conditions prescribed under Article 311. Rules of natural justice are not embodied rules nor can they be elevated to the position of fundamental rights. As observed by this Court in A.K. Kraipak v. Union of India "the aim of rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules can operate only in areas not covered by any law validly made. In other words they do not supplant the law but supplement it". It is true that if a statutory provision can be read consistently with the principles of natural justice, the courts should do so because it must be presumed that the Legislatures and the statutory authorities intend to act in accordance with the principles of natural justice. But if on the other hand a statutory provision either specifically or by necessary implication excludes the application of any or all the principles of natural justice then the court cannot ignore the mandate of the Legislature or the statutory authority and read into the concerned provision the principles of natural justice. Whether the exercise of a power conferred should be made in accordance with any of the principles of natural justice or not depends upon the express words of the provision conferring the power, the nature of the power conferred, the purpose for which it is conferred and the effect of the exercise of that power.*

***9.*** *Now corning to the express words of Fundamental Rule 56(j) it says that the appropriate authority has the absolute right to retire a government servant if it is of the opinion that it is in the public interest to do so. The right conferred on the appropriate authority is an absolute one. That power can be exercised subject to the conditions mentioned in the rule, one of which is that the concerned authority must be of the opinion that it is in public interest to do so. If that authority bona fide forms that opinion, the correctness of that opinion cannot be challenged before courts. It is open to an aggrieved party to contend that the requisite opinion has not been farmed or the decision is based on collateral grounds or that it is an arbitrary decision. The 1st respondent challenged the opinion formed by the Government on the ground of mala fide. But that ground has failed. The High Court did not accept that plea. The same was not pressed before us. The impugned order was not attacked on the ground that the required opinion was not formed or that the opinion formed was an arbitrary one. One of the conditions of the 1st respondent's service is that the Government can choose to retire him any time after he completes fifty years if it thinks that it is in public interest to do so. Because of his compulsory retirement he does not lose any of the rights acquired by him before retirement. Compulsory retirement involves no civil consequences. The aforementioned Rule 56(j) is not intended for taking any penal action against the government servants. That rule merely embodies one of the facets of the pleasure doctrine embodied in Article 310 of the Constitution. Various considerations may weigh with the appropriate authority while exercising the power conferred under the rule. In some cases, the Government may feel that a particular post may be more usefully held in public interest by an officer more competent than the one who is holding. It may be that the officer who is holding the post is not inefficient but the appropriate authority may prefer to have a more efficient officer. It may further be that in certain key posts public interest may require that a person of undoubted ability and integrity should be there. There is no denying the fact that in all organizations and more so in government organizations, there is good deal of dead wood. It is, in public*

*interest to chop off the same. Fundamental Rule 56(j) holds the balance between the rights of the individual government servant and the interests of the public. While a minimum service is guaranteed to the government servant, the Government is given power to energise its machinery and make it more efficient by compulsorily retiring those who in its opinion should not be there in public interest.*

***10.** It is true that a compulsory retirement is bound to have some adverse effect on the government servant who is compulsorily retired but then as the rule provides that such retirements can be made only after the officer attains the prescribed age. Further, a compulsorily retired government servant does not lose any of the benefits earned by him till the date of his retirement. Three months' notice is provided so as to enable him to find out other suitable employment."*

24. It further appears that the Supreme Court in the case of ***Union of India Vs. M. E. Reddy and Another*** *reported in* ***(1980) 2 SCC 15*** observed that 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 hand gives a new animation and equanimity to the services. It was observed that the employees should try to understand the true spirit behind the rule which is not to penalize them but amounts just to a fruitful incident of the service made in the larger public interest of the country. It was observed that 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 it martyr. Paragraph No.12 of the said judgment being pertinent is quoted hereinbelow.

"***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."*

25. Subsequent thereto, a three Judges Bench of the Supreme Court in the case of ***Baikuntha Nath Das and Another Vs. Chief District Medical Officer, Baripada and Another*** *reported in* ***(1992) 2 SCC 299*** culled out various principles as regards the understanding of the concept of compulsory retirement as well as the scope of judicial review. Paragraph No.34 of the said judgment being relevant is quoted hereinbelow:

"***34.*** *The following principles emerge from the above discussion:*

*(i) An order of compulsory retirement is not a punishment. It implies no stigma nor any suggestion of misbehaviour.*

*(ii) The order has to be passed by the government on forming the opinion that it is in the public interest to retire a government servant compulsorily. The order is passed on the subjective satisfaction of the government.*

*(iii) Principles of natural justice have no place in the context of an order of compulsory retirement. This does not mean that judicial scrutiny is excluded altogether. While the High Court or this Court would not examine the matter as an appellate court, they may interfere if they are satisfied that the order is passed (a) mala fide or (b) that it is based on no evidence or (c) that it is arbitrary — in the sense that no reasonable*

*person would form the requisite opinion on the given material; in short, if it is found to be a perverse order.*

(iv) *The government (or the Review Committee, as the case may be) shall have to consider the entire record of service before taking a decision in the matter — of course attaching more importance to record of and performance during the later years. The record to be so considered would naturally include the entries in the confidential records/character rolls, both favourable and adverse. If a government servant is promoted to a higher post notwithstanding the adverse remarks, such remarks lose their sting, more so, if the promotion is based upon merit (selection) and not upon seniority.*

(v) *An order of compulsory retirement is not liable to be quashed by a Court merely on the showing that while passing it uncommunicated adverse remarks were also taken into consideration. That circumstance by itself cannot be a basis for interference."*

26. It is relevant to mention at this stage that the Supreme Court in the case of ***Baikuntha Nath Das (supra)*** had in the above quoted paragraph held that the scope of judicial review is permissible if the Court is satisfied that the order is passed mala fide or that it is based on no evidence or that it is arbitrary in a sense that no reasonable person would form the requisite opinion on the given material or in other words, if it is found to be a perverse order.

27. After the judgment of the Supreme Court in the case of ***Baikuntha Nath Das (supra)***, another Three Judges Bench of the Supreme Court in the case of ***Posts and Telegraphs Board and Others Vs. C.S.N. Murthy*** *reported in* ***(1992) 2 SCC 317*** observed that the Court would not interfere with the

exercise of power of compulsory retirement, if arrived at bona fide and on the basis of materials available on record. Paragraph No.5 of the said judgment being relevant is extracted hereinbelow:

> "***5.*** *It will be clear from the extracts referred to above, that though the respondent's conduct was quite satisfactory till March 1970, his standard of work had declined in the last two years under review. In both these years, it was found that he was not taking adequate interest in his work and was responsible for delays of various kinds. As has already been pointed out, an order of compulsory retirement is not an order of punishment. F.R. 56(j) authorises the Government to review the working of its employees at the end of their period of service referred to therein and to require the servant to retire from service if, in its opinion, public interest calls for such an order. Whether the conduct of the employee is such as to justify such a conclusion is primarily for the departmental authorities to decide. The nature of the delinquency and whether it is of such a degree as to require the compulsory retirement of the employee are primarily for the Government to decide upon. The courts will not interfere with the exercise of this power, if arrived at bona fide and on the basis of material available on the record. No mala fides have been urged in the present case. The only suggestion of the High Court is that the record discloses no material which would justify the action taken against the respondent. We are unable to agree. In our opinion, there was material which showed that the efficiency of the petitioner was slackening in the last two years of the period under review and it is, therefore, not possible for us to fault the conclusion of the department as being mala fide, perverse, arbitrary or unreasonable. The Division Bench seems to have thought that, since the adverse remarks mentioned in the earlier letter of April 29, 1971 were not repeated in the subsequent letter, it should be taken that they had been given up subsequently or that the respondent had improved in the subsequent year. We do not think that this is a legitimate inference, for the report for 1971-72 only shows that the respondents' propensity to delay matters persisted despite the warning of*

*the previous year. But, even if one assumes that the High Court was correct on this, the adverse remarks made against the respondent in relation to the period 1971-72, standing by themselves, can constitute sufficient material for the department to come to a conclusion in the matter. It is true that the earlier record of the respondent was good but if the record showed that the standard of work of the respondent had declined and was not satisfactory, that was certainly material enabling the department to come to a conclusion under F.R. 56(j). We are of opinion that the High Court erred in setting aside the order of compulsory retirement on the basis that there was no material at all on record justifying the action against the respondent."*

28. Subsequent thereto, in another Three Judges Bench of the Supreme Court in the case of ***Union of India and Others Vs. Dulal Dutt*** *reported in* ***(1993) 2 SCC 179*** held that an order of compulsory retirement is not an order of punishment and it is the prerogative of the Government to pass such orders but it should be based on material and has to be passed on the subjective satisfaction of the Government and it is not required to be a speaking order. Paragraph No.18 of the said judgment being relevant is extracted hereinbelow:

"***18.*** *It will be noticed that the Tribunal completely erred in assuming, in the circumstances of the case, that there ought to have been a speaking order for compulsory retirement. This Court, has been repeatedly emphasising right from the case of R.L. Butail v. Union of India and Union of India v. J.N. Sinha that an order of a compulsory retirement is not an order of punishment. It is actually a prerogative of the Government but it should be based on material and has to be passed on the subjective satisfaction of the Government. Very often, on enquiry by the Court the Government may disclose the material but it is very much different from the saying that the order should be a speaking order. No order of compulsory retirement is required to be a speaking order. From the*

*very order of the Tribunal it is clear that the Government had, before it, the report of the Review Committee yet it thought it fit of compulsorily retiring the respondent. The order cannot be called either mala fide or arbitrary in law."*

29. Subsequent thereto, the Supreme Court again in the case of ***Secretary to the Government, Harijan and Tribal Welfare Department and Another Vs. Nityananda Pati*** *reported in* ***1993 Supp. (2) SCC 391*** observed that uncommunicated adverse remarks can also be taken into consideration while passing an order of compulsory retirement. The Supreme Court again in the case of ***State of Punjab Vs. Gurdas Singh*** *reported in* ***(1998) 4 SCC 92*** observed that an adverse entry prior to earning of a promotion or crossing of efficiency bar or picking up higher rank is not wiped off and can be taken into consideration while considering the overall performance of an employee during the whole of his tenure of service whether it is in the public interest to retain him in the service. It was observed that the whole record of service of the employee will include any uncommunicated adverse entries as well. This very concept was further developed in the case of ***Rajasthan State Road Transport Corporation and Others Vs. Babu Lal Jangir*** *reported in* ***(2013) 10 SCC 551*** wherein it was observed that the "washed off theory" will have no application when the case of an employee is being assessed to determine whether he is fit to be retained in service or requires to be given compulsory retirement. It was observed that the rationale behind it is that since such an assessment is to be based on the "entire service record", there is no question of not taking into consideration the earlier old adverse entries or records of old period. It was however observed that while such a record can be taken into consideration, at the same time, the service record of the immediate past period will have to be given due credence and weightage.

The Supreme Court further explained that as against some very old adverse entries where the immediate past records shows exemplary performance, ignoring such a record of recent past and acting only on the basis of old adverse entries, to retire a person would be a clear example of arbitrary exercise of power. It was further observed that if old record pertains to integrity of a person, then that may be sufficient to justify the order of premature retirement of the Government servant. Paragraph Nos. 22 and 23 of the said judgment in the case of ***Babu Lal Jangir (supra)*** are reproduced hereinbelow:

> "***22.*** *It clearly follows from the above that the clarification given by a two-Judge Bench judgment in Badrinath is not correct and the observations of this Court in Gurdas Singh to the effect that the adverse entries prior to the promotion or crossing of efficiency bar or picking up higher rank are not wiped off and can be taken into account while considering the overall performance of the employee when it comes to the consideration of case of that employee for premature retirement.*
>
> ***23.*** *The principle of law which is clarified and stands crystallised after the judgment in Pyare Mohan Lal v. State of Jharkhand is that after the promotion of an employee the adverse entries prior thereto would have no relevance and can be treated as wiped off when the case of the government employee is to be considered for further promotion. However, this "washed-off theory" will have no application when the case of an employee is being assessed to determine whether he is fit to be retained in service or requires to be given compulsory retirement. The rationale given is that since such an assessment is based on "entire service record", there is no question of not taking into consideration the earlier old adverse entries or record of the old period. We may hasten to add that while such a record can be taken into consideration, at the same time, the service record of the immediate past period will have to be*

*given due credence and weightage. For example, as against some very old adverse entries where the immediate past record shows exemplary performance, ignoring such a record of recent past and acting only on the basis of old adverse entries, to retire a person will be a clear example of arbitrary exercise of power. However, if old record pertains to integrity of a person then that may be sufficient to justify the order of premature retirement of the government servant."*

30. Before further proceeding, this Court finds it relevant to take note of another judgment of the Supreme Court which had crystallized that definitive principles as regards the law relating to compulsory retirement i.e. the judgment rendered in the case of ***State of Gujarat Vs. Umedbhai M. Patel*** *reported in* ***(2001) 3 SCC 314***. Paragraph No.11 of the said judgment is reproduced hereinbelow:

"***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 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."*

31. This Court finds it relevant to refer to another judgment rendered in the case of ***Nisha Priya Bhatia Vs. Union of India and Another*** *reported in* ***(2020) 13 SCC 56*** wherein the Supreme Court was confronted with the question as to whether the action taken under Rule 135 of the Research and Analysis Wing (Recruitment Cadre and Service) Rules, 1975 is in the nature of a penal or a dismissal clotted as compulsory retirement so as to attract Article 311 of the Constitution. The Supreme Court held that the real test for this examination is to see whether the order of compulsory retirement is occasioned by the concern of unsuitability or as a punishment for misconduct. For drawing this distinction between unsuitability or as a punishment for misconduct, the Supreme Court relied upon a judgment in the case of ***State of Bombay Vs. Saubhagchand M. Doshi*** *reported in* ***AIR 1957 SC 892*** where the distinction between an order of dismissal and an order of compulsory retirement was explained. It was observed that an order of dismissal is a punishment laid on a Government servant when it is found that he has been guilty of misconduct or inefficiency or alike and it is penal in character because it involves loss of pension which under the Rules would have accrued in respect of the service already put it. On the other hand, an order of removal also stands on the same footing as an order of dismissal

and involves the same consequences. However, the only difference between them being that while a Government servant who is dismissed is not eligible for re-appointment but a Government servant who is compulsorily retired is eligible for re-appointment. It was further explained that an order of removal on the basis of compulsory retirement of a Government servant is not a form of punishment prescribed by the rules and involves no penal consequences inasmuch as the person retired is entitled to pension proportionate to the period of service standing to his credit.

32. The above principles which have been stated, have been also explained and accepted by the Supreme Court in two recent judgments i.e. in the case of ***Central Industrial Security Force Vs. HC (GD) Om Prakash*** *reported in* ***(2022) 5 SCC 100*** as well as in the case of ***Captain Pramod Kumar Bajaj Vs. Union of India and Another*** *reported in* ***(2022) SCC Online SC 234***. From the above judgments, the following settled principles of law emerge.

(i) There has to be a subjective satisfaction that it is in public interest to retire a Government servant. The said subjective satisfaction has to be arrived at on the basis of materials on record.

(ii) Adverse uncommunicated entries can also be taken into consideration while passing an order of compulsory retirement on the basis of the rationale that the Government servant is assessed to determine whether he is fit to be retained in employment or requires to be given compulsory retirement.

(iii) The washed off theory has no application on the ground that as the assessment has to be based on the entire service record, there is no question of not taking into consideration the earlier old adverse entries or

record of the old period. However, the service record of the immediate past period will have to be given due credence and weightage inasmuch as, it would be arbitrary to retire a person on the basis of old adverse entries when the immediate past records shows exemplary performance. However, old records pertaining to the integrity of the person may be sufficient to justify an order of compulsory retirement.

(iv) The scope of judicial review of an order of compulsory retirement based on subjective satisfaction of an employer is extremely narrow and restricted. It is only when the Court is satisfied that the order is based on arbitrary or capricious ground, vitiated by mala fides, overlooks relevant materials, there is a limited scope for interference. This Court cannot also in exercise of powers under judicial review sit in judgment over the same as an Appellate Authority and it is only on the basis of the principles set out in paragraph 34(iii) in the case of ***Baikuntha Nath Das (supra)***, then only interference with an order of compulsory retirement is permissible.

(v) The three months notice period or three months pay and allowances in lieu of such notice is a safeguard that is given to a Government servant who is compulsorily retired so that within this notice period of three months or three months pay and allowances in lieu of such notice, the Government servant can find out other suitable employment as an order of compulsory retirement does, is not bar a Government servant for re-employment.

33. In the backdrop of the above principles so culled out, let this Court take into consideration the relevant provision of compulsory retirement as applicable. FR 56(b) of FR & SR gives the power to the appropriate authority to compulsorily retire a Government servant if it is in public interest to do so

by giving him notice of not less than three months in writing or three months' pay and allowances in lieu of such notice after the Government servant has attained 50 years of age or has completed 25 years of service whichever is earlier. FR 56(b) of FR & SR as applicable to the present case being pertinent to the issue involved is reproduced hereinunder:

> "*56(b) Notwithstanding anything contained in these rules the appropriate authority may, if he is of the opinion that it is in the public interest to do so, retire a Government servant by giving him notice of not less than three months in writing or three months' pay and allowances in lieu of such notice after he has attained fifty years of age or has completed 25 years of service, whichever is earlier."*

34. From the above quoted provision as well as the principles as set out hereinabove, the requirements to be met for exercise of the power has to be when the Government servant had either attained 50 years of age or had completed 25 years of service whichever is earlier; the exercise of the power has to be done in public interest and either there has to be a notice of three months in writing or three months pay and allowances in lieu of such notice. The reason behind the issuance of notice of three months or three months pay and allowances in lieu of such notice have already been dealt with by this Court hereinabove.

35. In the backdrop of the above, let this Court take into consideration the facts involved in the instant case and as to whether the impugned order dated 25.03.2020 was passed in public interest. A perusal of the impugned order dated 25.03.2020 would reveal that that the appropriate authority had taken into consideration various orders as well as communications. The details of which can be seen from annexures enclosed to the additional

affidavit filed by the Respondent No.2 on 02.03.2023. It is well settled that the principles of natural justice have no role to play in the context of an order of compulsory retirement. The very reason why the three months notice in writing or three months pay and allowances in lieu of such notice is given is to facilitate a compulsorily retired Government servant a breathing period to find out other suitable employment. It would also be seen from a perusal of the order dated 25.03.2020 that there is a mention in the said order that the petitioner had not attended her official duties for a long time and used to leave office without any prior permission from the superior authority and submitted petition for Earned Leave after long absence. It has also been mentioned that the petitioner has been asked to Show Cause many times but this did not change the attitude of the petitioner despite stern warning from the higher authority. These aspects of the matter can be seen from the materials which have been enclosed to the additional affidavit and there has been no specific denial to the said contents of the additional affidavit filed by the respondent No.2.

36. As already observed the scope of interference as regards an order of compulsory retirement is narrow and restricted. It is only on the grounds that the action of the respondent authorities are vitiated by arbitrariness or capriciousness or by mala fides and without taking into consideration the relevant materials, an interference can be made to an order of compulsory retirement. This Court cannot also forget that this Court while exercising the powers under judicial review cannot sit as an Appellate Authority to the order of compulsory retirement passed by the appropriate authority. From the materials on record as enclosed to the additional affidavit filed by the respondent No.2, this Court is of the opinion that the impugned order of

compulsory retirement dated 25.03.2020 is based upon the available materials and the exercise of the power cannot be said that such exercise of power was with a mala fide intent. This Court is also of the view that taking note of the materials on record which shows that the conduct of the petitioner after her promotion in the year 2004 do justify the action of compulsory retirement keeping in mind for better and efficient administration, it was the necessary to weed out the petitioner from the establishment of the Respondent No.2.

37. This Court further finds it relevant to mention another very relevant aspect of the matter. During the course of the hearing, this Court taking into account the submissions made by the learned counsel for the petitioner that the ACRs for the years 2005, 2006, 2007, 2009, 2014, 2016, 2017, 2019 and 2020 which contained "Good" as well as "Very Good" have not been taken into consideration, enquired with the learned counsel for the petitioner as to which of the said ACRs for the above mentioned period were "Good" as well as "Very Good". The learned counsel for the petitioner however failed to substantiate the said submission by mentioning as to which of the ACRs were "Good" as well as "Very Good" for that relevant period. It would therefore appear that the said submission was made without any substance.

38. However, a vital aspect of the matter is required to be taken note of as would appear from the facts involved. A perusal of the order bearing No. NCHG/E-277/2019-20/4579 dated 13.12.2019, the Deputy Commissioner, Dima Hasao had directed the petitioner to go for voluntary retirement on account of the constant negligence of Government duties and irregularity in attending office. It was further mentioned that the petitioner would be released after 3 (three) months w.e.f. 01.12.2019. It further appears that

the respondent No.3 i.e. the Sub-Divisional Officer (Civil) vide an order dated 29.02.2020 released the petitioner on account of voluntary retirement.

39. At this stage, it is relevant to refer to FR 56(c) of the FR & SR as applicable which stipulates the manner in which a Government servant can go on voluntary retirement. It stipulates that any Government servant may by giving notice of not less than three months in writing to the appropriate authority retire from service after he has attained the age of 50 or has completed 25 years of service whichever is earlier. Therefore, the requirement which is to be met for allowing a Government servant to go for voluntary retirement is upon the volition of Government servant to do so and the authorities concerned cannot impose the petitioner as has been done in the instant case vide the communications dated 13.12.2019 and 29.02.2020 whereby the petitioner was released on 29.02.2020 on voluntary retirement. This is not permissible. It was only when the petitioner made representations and filed an application under the Right to Information Act, 2005 requesting for information on the what basis the petitioner have been released on voluntary retirement seeking particulars of such application filed by the petitioner, a corrigendum was issued on 14.03.2020 whereby the communication dated 13.12.2019 was sought to be amended by substituting the words "Voluntary Retirement" with "Compulsory Retirement".

40. It would further be seen from the impugned order dated 25.03.2020 that the petitioner has been compulsorily retired from service w.e.f. 29.02.2020 which is the date ante to the order of compulsory retirement dated 25.03.2020. This Court is of the opinion that the communication bearing No. NCHG/E-277/2019-20/4579 dated 13.12.2019 as well as the order dated 29.02.2020 issued by the Sub-Divisional Officer (Civil) are

contrary to the provisions of Rule 56(c) of the FR & SR as applicable to the State of Assam inasmuch as the petitioner never applied for voluntary retirement which is a mandatory requirement for exercise of power under FR 56(c). Therefore, the communication bearing No. NCHG/E-277/2019-20/4579 dated 13.12.2019 issued by the respondent No.2 as well as the order dated 29.02.2020 issued by the respondent No.3 are nonest in the eyes of law and cannot be acted upon.

41. Under such circumstances, while this Court is of the opinion that on the basis of the materials available on record, the order dated 25.03.2020 by which the petitioner was compulsorily retired, does not require any interference, this Court is also of the opinion that the interest of justice would be met if the petitioner would be deemed to have been compulsorily retired only on 25.03.2020 i.e. the date of the order of compulsory retirement and the petitioner would be further entitled to three months pay and allowances w.e.f. the date of compulsory retirement.

42. In view of the above finding and observations so made whereby this Court had upheld the order dated 25.03.2020 subject to the observations that the petitioner shall be deemed to have been compulsorily retired only on 25.03.2020 and the petitioner would be entitled to the pay and allowances for three months therefrom, nothing further survives to be decided in the second writ petition i.e. WP(C) No.3533/2020 inasmuch as the entire relief sought for was protection from being evicted from the Government quarter till the pendency of the instant writ petition. However, in the interest of justice, this Court deems it proper to give the petitioner 1 (one) month further time from the date of the instant judgment to vacate

the Government quarter. Thereupon, the respondent authorities would be entitled to take recourse to such provisions of law if the petitioner does not vacate the Government quarter.

43. Accordingly, both the writ petitions stands disposed of with the following observations and directions.

(i) The order of compulsory retirement dated 25.03.2020 calls for no interference save and except that the order of compulsory retirement dated 25.03.2020 shall be effective from 25.03.2020.

(ii) The petitioner shall be entitled to 3 (three) months pay along with all allowances w.e.f. 25.03.2020. The said amount be disbursed by the Respondent Authorities within a period of 2 (two) months from the date a certified copy of the instant judgment is served upon the Respondent No.2. Any delay after the stipulated period herein given would entails interest @12% per annum from the date of such default.

(iii) The petitioner would be able to retain the present accommodation for a period of 1 (one) month from today and thereafter the petitioner is directed to vacate the residential quarter. If the petitioner fails to vacate, the Respondent Authorities would be at liberty to take such action as deemed fit in accordance with law.

44. There shall be no order for costs.

**JUDGE**

**Comparing Assistant**