

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT SRINAGAR**

Reserved on: 10.09.2026  
Pronounced on: 28.09.2026  
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Whether the operative part  
or full judgment is  
pronounced: **Full.**

**LPASW NO.189/2018  
IA NO.1/2018**

State of Jammu & Kashmir through  
Commissioner/Secretary to Government General  
Administration Department, Civil Secretariat, Srinagar. ...**Appellant.**

Through: Mr. Hakim Aman Ali, Dy.AG.

Vs.

Ghulam Mohammad Lone Age 60 years S/o Kh.  
Mohammad Maqbool Lone R/o Lawaypora, District  
Srinagar. ....**Respondent**

Through: Mr. Imtiyaz A. Sofi, Advocate.

**CORAM:**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE SANJEEVKUMAR, JUDGE**

**JUDGMENT**

**Dr. Pushpendra Singh Bhati, CJ**

**I. Nature of the challenge:**

**01.** The present Letters Patent Appeal (LPASW No. 189/2018) arises out of the judgment dated 05.10.2018 passed by the learned Single Judge in SWP No. 2166/2016, titled Ghulam Mohammad Lone v. State of J&K. By the said judgment, the learned Single Judge allowed the writ petition and quashed Government Order No. 1264-GAD of 2016 dated 21.11.2016, whereby the respondent-writ petitioner had been prematurely/compulsorily retired from Government service in exercise of the power contained in Article 226(2) of the Jammu and Kashmir Civil Services Regulations, 1956 (hereinafter referred to as 'JKCSR' for brevity). The State, being aggrieved

of the said judgment, preferred the present Letters Patent Appeal seeking setting aside of the judgment of the learned Single Judge and dismissal of the writ petition. The impugned order of compulsory retirement had been passed after consideration by a committee constituted for examining cases of premature retirement, and that the Committee had taken into account the service record, the petitioner's alleged involvement in a vigilance case and his general reputation.

**02.** The controversy, therefore, essentially concerns the scope of judicial review of an order of premature/compulsory retirement, the extent to which the Court can examine the material considered by the Screening/Review Committee, and whether the learned Single Judge was justified in interfering with the decision of the competent authority on the ground that the material relied upon was insufficient to form a reasonable opinion regarding the petitioner's continuance in service.

**03.** The record discloses that the respondent had rendered about 38 years of service and had attained the age of 58 years when the order of premature retirement was issued. The State had relied upon Article 226(2) of the JKCSR, under which a Government servant could be required to retire in the 'public interest' after completion of the prescribed qualifying service or on attaining the prescribed age. The impugned order was consequently founded upon the satisfaction of the competent authority that the respondent's further continuance in service was not in public interest.

**04.** The case set up by the appellant before the learned Single Judge was that compulsory retirement is a mechanism intended to ensure efficiency and integrity in public administration and to weed out persons who have become deadwood or whose continuance is considered detrimental to public interest. It was specifically pleaded that the Committee had considered the respondent's service record, including the vigilance case registered against him for allegedly demanding and accepting a bribe of Rs.9,000/-, his general reputation and other relevant material before recommending his compulsory retirement.

**05.** The learned Single Judge, however, took the view that the material relied upon by the respondents did not justify the formation of a reasonable

opinion that the respondent had outlived his utility as a Government servant or that his continuance in service would be prejudicial to public interest. The learned Single Judge accordingly quashed the Government order and directed reinstatement with consequential benefits. It is this conclusion which constitutes the principal subject matter of challenge in the present appeal.

## **II. Contentions of the Appellant–State**

**06.** The appellant–State has assailed the judgment of the learned Single Judge principally on the ground that the learned Single Judge failed to appreciate the limited scope of judicial review in matters relating to premature or compulsory retirement.

**07.** It has been contended that the power under Article 226(2) of the JKCSR is exercised in the public interest and is intended to enable the Government to remove deadwood and persons whose continued presence in service may adversely affect the efficiency and integrity of administration. The State submits that the purpose of such power is not to impose a punishment upon the employee but to maintain an efficient and effective administration.

**08.** The State further contends that the learned Single Judge ought not to have undertaken an elaborate examination of the adequacy or sufficiency of the material which had weighed with the Screening/Review Committee. According to the appellant, the Court exercising judicial review is not sitting as an appellate authority over the subjective satisfaction of the competent administrative authority. The Court can interfere only where the decision is shown to have been actuated by mala fides, is based on no material, is arbitrary or perverse, or suffers from non-application of mind.

**09.** It is specifically urged that the Committee consisted of senior officers of the Government and had considered the **entire service record and relevant circumstances** before recommending premature retirement. The State has relied upon the fact that the respondent had been caught allegedly demanding and accepting a bribe of Rs.9,000/- while holding a responsible post in the School Education Department, resulting in registration of FIR No.18/2010 by the Vigilance Organization. The

Committee also considered the respondent's reputation and other service-related material.

**10.** The appellant has further submitted that the learned Single Judge erred in treating the vigilance case as though the respondent had been subjected to a punitive order on the basis of a proved misconduct. According to the State, the existence of the vigilance case and the circumstances surrounding it constituted relevant material for the purpose of determining whether the respondent had outlived his utility and whether his continued retention was in public interest. The State has also contended that the fact that criminal proceedings were pending did not, by itself, render the material irrelevant for the purpose of premature retirement.

**11.** Another important contention of the appellant is that the Committee had not mechanically acted upon the FIR alone. The State asserts that the case was considered in the context of the respondent's service record and general reputation and that the Committee, after deliberation, formed the opinion that it would not be in public interest to retain the respondent in service. The appellant therefore submits that the learned Single Judge substituted his own assessment of the material for that of the competent authority, which was impermissible within the limited scope of judicial review.

**12.** The State has also specifically pleaded that the order of compulsory retirement is neither punitive nor stigmatic. It is an administrative measure adopted in public interest and does not amount to a penalty under Article 311 of the Constitution. The appellant accordingly contends that the learned Single Judge fell into error in subjecting the decision to a standard of scrutiny applicable to disciplinary punishment. The appellant has further relied upon the principle that while considering compulsory retirement, the entire service record of an employee has to be kept in view and the authority is required to form an overall opinion regarding the employee's utility and efficiency. It has been argued that the Committee in the present case was constituted precisely for this purpose and had undertaken the requisite exercise.

### **III. Contentions of the Respondent–Writ Petitioner**

**13.** The respondent, on the other hand, has supported the judgment of the learned Single Judge and contended that the Government order of compulsory retirement was arbitrary, unreasonable and unsupported by legally sustainable material. The respondent's principal contention was that his entire service career had been satisfactory and that he had discharged his duties honestly and diligently. It was asserted that he had received promotions during his service on account of his suitability, merit and satisfactory service record. The respondent therefore maintained that there was no legitimate basis for concluding that he had become deadwood or had outlived his utility as a government servant.

**14.** The respondent disputed the allegations concerning the vigilance case and contended that the allegations of demanding and accepting a bribe were incorrect. It was pointed out that the FIR had resulted in criminal proceedings which were still pending before the competent Court and that no final finding of guilt had been recorded against him. The respondent accordingly argued that an unproved allegation could not be treated as conclusive proof of misconduct or corruption.

**15.** It was further contended that an FIR is merely the starting point of criminal law and contains allegations which have yet to be established in accordance with law. According to the respondent, the mere registration of an FIR could not constitute a valid foundation for prematurely terminating his long-standing Government service. The respondent also challenged the reliance placed upon his Annual Confidential/Performance Reports. He contended that the maintenance and completion of the ACRs/APRs was not his responsibility and that the reports which were actually available reflected satisfactory performance. He therefore argued that the Committee had failed to properly appreciate the positive aspects of his service record.

**16.** The respondent further alleged that the Government had failed to establish that his case fell within the parameters of Article 226(2) of the JKCSR or the relevant Government instructions. It was urged that the Committee had relied upon vague and superficial allegations and had not produced sufficient material demonstrating that his further continuance in

service would be prejudicial to public interest. The respondent also relied upon the principle that although the power of compulsory retirement is wide, it cannot be exercised arbitrarily or as a substitute for disciplinary proceedings. The respondent thus sought to sustain the judgment of the learned Single Judge whereby the order of premature retirement was quashed.

#### **IV. Legal Position Governing Premature/Compulsory Retirement**

17. The controversy has to be examined against the settled distinction between compulsory retirement as an administrative measure and dismissal/removal as a punitive consequence. The jurisprudence on compulsory retirement has consistently recognized that the power is conferred upon the Government in public interest to ensure that a Government servant who has become inefficient, ineffective, or whose continuance is otherwise not considered beneficial to administration, may be retired in accordance with the applicable service rules. At the same time, the power is not absolute. The opinion of the competent authority must be formed on relevant material, and judicial review remains available where the decision is mala fide, arbitrary, based on no evidence, perverse, or where relevant material has been ignored. The distinction is therefore between reviewing the decision-making process and substituting the Court's own opinion for that of the competent authority. This distinction assumes particular importance in the present case because the learned Single Judge interfered with the order of compulsory retirement notwithstanding the fact that the decision had emanated from a duly constituted Committee and had subsequently been accepted by the competent authority. The State's case is that the learned Single Judge effectively re-appreciated the material and substituted his assessment for the subjective satisfaction of the competent authority.

18. The legal position has now been authoritatively reiterated by the Division Bench of the High Court of Jammu & Kashmir and Ladakh in *State of Jammu and Kashmir through Commissioner/Secretary to Government, GAD v. Ahsan-ul-Haq Khan*, LPASW No.171/2018, decided

on **30.12.2025**. The said judgment is particularly significant because it directly considers the law governing premature retirement under Regulation 226(2) of the J&K Civil Services Regulations and the scope of judicial review in such matters. The Court, after noticing the statutory framework, observed in paragraph 9 as under:

*“9 The premature retirement of a Government servant in the then State of Jammu and Kashmir (now UT of Jammu and Kashmir) is governed by Regulation 226(2) of the J&K Civil Services Regulations ("CSR"), which authorizes the Government to retire a government servant at any time after he has completed 22 years of service or attained the age of 48 years, in public interest. This power is exercised by the Government to weed out such Government servants who have turned deadwood and are inefficient and persons with doubtful integrity.”*

The above paragraph makes it clear that premature retirement is not conceived as a disciplinary penalty. Its underlying purpose is to secure the efficiency and integrity of the public administration by enabling the Government to remove from service persons whose continued retention is no longer considered to be in public interest. More importantly, the Division Bench in paragraph 11 has expressly stated:

*“11 The power of premature retirement, also known as compulsory retirement, is intended to be exercised in public service to maintain efficiency and integrity in Government service and to weed out those whose continuance has become a liability to the administration. Such power is neither punitive in nature nor does it entail any civil consequences by way of stigma. The satisfaction of the authority that the premature retirement of a particular Government servant is in public interest is, though subjective in nature, yet it must be based on cogent material derived from the employee's entire service record, with greater emphasis on the later years of service. Doubtful integrity is a relevant factor for arriving at such satisfaction. Even un-communicated adverse entries can also be considered. The satisfaction arrived at by the competent authority that weeding out an inefficient Government servant or a Government servant having doubtful integrity is necessary must be based on cogent material and must not rest on irrelevant, extraneous, or mala fide grounds. Judicial review in such matters is limited and permissible only where the decision is shown to be mala fide, arbitrary, or*

*based on no evidence, or where relevant material has been ignored or extraneous considerations have crept in. Once it is demonstrated that the competent authority, upon consideration of the service record, has arrived at a bona fide satisfaction that premature/compulsory retirement of the employee is in public interest, the Court would not sit in appeal and substitute its own opinion for that of the competent administrative authority.”*

The Division Bench has clearly drawn the boundary between a **punitive action** and an **administrative decision to retire an employee in public interest**. It has simultaneously emphasized that the subjective satisfaction of the authority is not beyond judicial review; however, the review is confined to the established grounds such as mala fides, arbitrariness, absence of evidence, consideration of irrelevant material, or failure to consider relevant material. Thus, the principle emerging from *Ahsan-ul-Haq Khan* is twofold: **first**, premature retirement is neither punitive nor stigmatic; and **second**, although the authority's satisfaction is subjective, it must be founded upon cogent material and the entire service record.

19. The foundational judgment of the Supreme Court remains *Baikuntha Nath Das and another v. Chief District Medical Officer, Baripada and another*, reported in (1992) SCC Online SC 336 at page 315. Para-34 of the judgment being relevant reads as follows:

*“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.*

*Interference is permissible only on the grounds mentioned in (iii) above. This aspect has been discussed in paras 30 to 32 above.”*

V. **Application of the Law to the present case:**

20. Applying the above principles to the present matter, it becomes evident that the basic character of the impugned order has to be appreciated correctly. The Government order dated 21.11.2016 was an order of **premature/compulsory retirement under Article 226(2) of the J&K Civil Services Regulations**. It was not an order of dismissal or removal imposed by way of punishment. The fact that the Committee took note of the respondent's involvement in a vigilance case, his alleged acceptance of a bribe and his general reputation does not, by itself, transform the order into a punitive order. Such material may be relevant to the administrative assessment whether the employee's continued retention is in public interest, provided that the competent authority acts upon cogent and relevant material and does not use the power of compulsory retirement merely as a substitute for disciplinary proceedings.

21. This distinction is expressly recognized in *Ahsan-ul-Haq Khan*, where the Division Bench held that premature retirement is intended to maintain efficiency and integrity in Government service and to weed out employees whose continuance has become a liability to the administration. The Court specifically declared that such power is **“neither punitive in nature nor does it entail any civil consequences by way of stigma.”**The

same principle is firmly rooted in *Baikuntha Nath Das*. The Supreme Court has repeatedly recognized that compulsory retirement does not amount to punishment and does not imply misconduct or incapacity. The purpose is not to punish the employee for a particular act but to assess his continued utility from the standpoint of public administration.

22. Consequently, while examining the impugned order, the appropriate question is **not whether the Court itself would have reached the same conclusion as the Screening Committee**, but whether the competent authority had before it relevant and cogent material upon which a reasonable opinion regarding the employee's utility and public interest could be formed. The judicial review jurisdiction in such a case is accordingly narrow. The Court may examine whether the decision is tainted by mala fides, whether there is an absence of material, whether irrelevant or extraneous considerations have been relied upon, whether relevant material has been ignored, or whether the decision is so arbitrary or perverse that no reasonable authority could have arrived at it. The Court, however, cannot ordinarily substitute its own assessment of the employee's utility for that of the competent authority once a bona fide opinion has been formed in accordance with the applicable service rules. This is the precise principle reiterated by the Division Bench in *Ahsan-ul-Haq Khan*.

#### VI. **Finding:**

23. In view of the settled legal position, **the judgments in *State of Jammu and Kashmir v. Ahsan-ul-Haq Khan*, LPASW No.171/2018, and *Baikuntha Nath Das v. Chief District Medical Officer, Baripada*, (1992) SCC Online SC 336, continue to hold the field and represent the governing law on the nature of premature/compulsory retirement.**

24. The ratio emerging from these judgments is that **premature/compulsory retirement is an administrative measure taken in public interest and is neither punitive in nature nor stigmatic. It does not amount to dismissal or removal by way of punishment and does not, merely by reason of its character, entail civil consequences by way of stigma.** The power is intended to enable the Government to maintain efficiency, integrity and effectiveness in public administration and to weed

out employees whose continued retention is considered detrimental to public interest.

25. At the same time, the power cannot be exercised arbitrarily. The competent authority must form its opinion on the basis of relevant and cogent material, having regard to the employee's **entire service record**, with appropriate emphasis upon the later years of service. The existence of a vigilance case, adverse material or doubtful integrity may constitute relevant material, but the decision cannot be founded upon extraneous considerations or upon a mere allegation unsupported by material. *Ahsan-ul-Haq Khan* makes this limitation explicit by holding that judicial review remains available where the decision is mala fide, arbitrary, based on no evidence, or where relevant material has been ignored.

26. Accordingly, the mere fact that the respondent had challenged the allegations contained in the FIR, or that the criminal proceedings had not culminated in conviction, cannot by itself determine the legality of an order of premature retirement. The relevant enquiry is whether the material before the Screening Committee and the competent authority was legally relevant and whether, on consideration of the service record as a whole, a bona fide opinion could reasonably be formed that the employee's continuance was not in public interest. This is materially different from determining the respondent's criminal guilt.

27. **It is, therefore, held that premature/compulsory retirement is neither punitive in nature nor does it entail any civil consequences by way of stigma.** The order is an administrative measure founded upon the subjective satisfaction of the competent authority regarding the public interest involved in retaining or retiring a Government servant. The Court, while exercising judicial review, cannot substitute its own opinion for that of the competent authority merely because another view may also be possible. Interference is justified only when the decision-making process is vitiated by mala fides, arbitrariness, perversity, absence of material, reliance upon irrelevant considerations, or non-consideration of relevant material.

28. In the present case, therefore, the legality of the impugned order has to be tested against this limited standard of judicial review. The fact that the

respondent's case was considered by a duly constituted Committee and that the Committee took into account material concerning his service record, vigilance involvement and reputation is relevant to the assessment of whether the competent authority's satisfaction was bona fide. The Court is not required to sit as an appellate authority over such subjective satisfaction. The controlling consideration is whether the statutory power under Article 226(2) was exercised in public interest and on relevant material, and not whether the Court itself would have preferred a different administrative conclusion.

## **VII. Conclusion**

29. In view of the foregoing discussion and the law laid down in the aforesaid judgments, it is evident that the respondent-petitioner had rendered about 38 years of service and had attained the age of 58 years at the time of his compulsory retirement. He was also extended the admissible pensionary benefits, except the benefit of further increments consequent upon his retirement. It was reported by the department that the Annual Performance Reports (APRs) of the official for the period 2011-12, 2012-13, 2013-14, 2014-15 rate his performance as satisfactory in the most of the parameters of assessment except in the APR of 2014-15 where his rating varied from satisfactory to excellent on different parameters. Further, as is borne out from the Annual Performance Reports (APRs) forming part of the record, the performance of the petitioner-respondent was assessed as satisfactory/average and was not of such an exceptional or extraordinary nature as would warrant his continued retention in service as a matter of right. The competent authority, upon consideration of the relevant service record and the material placed before it, had accordingly formed the requisite opinion in the public interest for his premature retirement.

30. Accordingly, keeping in view the settled legal position that an order of compulsory/premature retirement is **neither punitive in nature nor does it entail any civil consequences by way of stigma**, and that the scope of judicial review in such matters is limited, the impugned order of compulsory retirement cannot be interfered with merely because another view may be possible on the same material. Consequently, the judgment dated

05/10/2018 passed by the learned Single Judge in SWP No. 2166/2016 is set aside, and Government Order No. 1264-GAD of 2016 dated 21.11.2016, whereby the petitioner-respondent was prematurely/compulsorily retired from service, is upheld.

**31.** The appeal is, accordingly, allowed in the aforesaid terms.

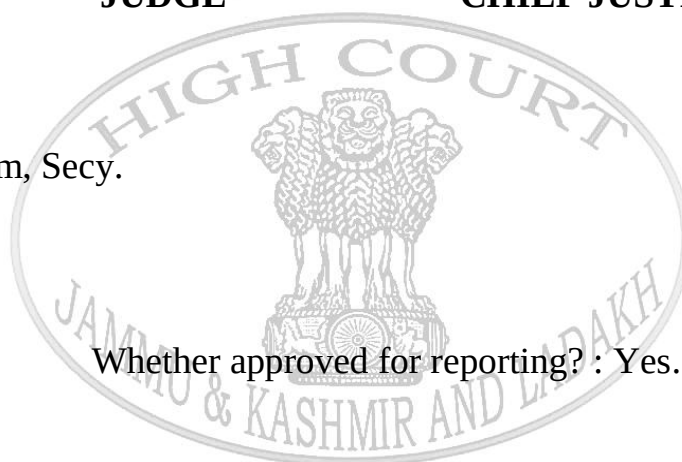
**(SANJEEV KUMAR)**  
**JUDGE**

**(DR. PUSHPENDRA SINGH BHATI)**  
**CHIEF JUSTICE**

**Srinagar**

28.09.2026

Abdul Qayoom, Secy.



Whether approved for reporting? : Yes.