

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 11764 of 2025
G.R.S.E. Ltd. Workmen's Union
Vs
Garden Reach Shipbuilders and Engineers Limited & Ors.
With
WPA 20654 of 2025
GRSE Ltd. Karmachari Sangha & Anr.
Vs
Union of India & Ors.

For the Petitioners : Mr. Soumya Majumder, Sr. Adv.
(in WPA 11764 of 2025) Mr. Nilay Sengupta,
Mr. Sujit Banerjee.

For the Petitioners : Mr. Susanta Pal,
(in WPA 20654 of 2025) Ms. Ananya Neogi,
Ms. Anushka Ghosh.

For the Respondent No. 1 : Mr. Ranjay De, Sr. Adv.
(in WPA 11764 of 2025) Mr. Basabjit Banerjee,
Mr. Adityajit Abel Bose.

For the Respondents : Mr. Shiv Chandra Prasad,
(in WPA 20654 of 2025) Mr. Pradyat Saha.

Judgment reserved on : 01.09.2025 and 04.09.2025

Judgment delivered on : 25.09.2025

Shampa Dutt (Paul), J.:

1. The writ application has been preferred challenging the orders of the Certifying Officer and the Appellate Authority under the Industrial Employment (Standing Orders) Act, 1946 and set aside the G.R.S.E. Ltd. notice dated 12th April, 2025 with regard to Premature Retirement Scheme for unionized employees and order dated 28th June, 2018 passed by the Certifying Officer and an order dated 14th July, 2022 passed by the Appellate Authority and the Premature Retirement Scheme for unionized employees.
2. It is the case of the petitioner that on the basis of a purported approval of the Board of Directors, the company had applied on 18th August, 2017 for modification of its Certified Standing Orders towards implementation of Premature Retirement Scheme in respect of workmen in lying with F.R. 56(1) of CCS (Pension) Rules, 1972.
3. The company had made the application for modification/amendment of the Certified Standing Orders with reference to decision of Government of India for Central Government employees who are beneficiaries of CCS (Pension) Rules, 1972 and are subject to fundamental Rules. The Union had filed its objection to the proposed amendment.
4. The Certifying Officer passed an order on 28th June, 2018, inter alia, allowing the amendment/modification for Premature Retirement Scheme in respect of workmen/employees of G.R.S.E. Ltd.
5. The petitioner preferred an appeal before the Appellate Authority.

6. After hearing, the Appellate Authority had reserved the appeal for orders on 8th November, 2019. The petitioner/Union had complained against the officer to the Ministry of Labour & Employment for his conduct.
7. On 12th April, 2025, a notice was flashed out by G.R.S.E. Ltd. disclosing a Premature Retirement Scheme for unionized employees. The petitioner through its office bearers thereafter contacted the HR Department of the company and they were handed over a copy of an order dated 14th July, 2022 passed by Dr. T.K. Panda. The petitioner made a representation dated 16th April, 2025 against such Premature Retirement Scheme.
8. Being aggrieved with the said amendment/modification of Certified Standing Orders of G.R.S.E. Ltd. with regard to the Premature Retirement Scheme of the workers, the writ application has been preferred on the ground that the order under challenge has been passed in a non-transparent and biased manner and the same manifests total abdication of duty by the Appellate Authority under the Industrial Employment (Standing Orders) Act, 1946 in deciding an appeal.
9. The question of invoking the provision in lying with Fundamental Rules or CCS (Pension) Rules cannot arise since the service of the workmen of G.R.S.E. Ltd. are governed by statutorily laid down condition of service and industrial settlements which form parts of contract of employment.
10. The workmen of a public sector undertaking do not hold their office under the pleasure of the President and hence the concept of compulsory retirement cannot apply to their case.

11. The Certifying Officer and the Appellate Authority under the Industrial Employment (Standing Orders) Act, 1946 have both exceeded their jurisdiction.
12. It is the case of the learned senior counsel, Mr. Majumder, appearing for the petitioner that Section 3 provides for draft Standing Orders.
13. It is the further case of the petitioner, that vide an order dated 12.04.2025, a Premature Retirement Scheme-Unionized Employees, was issued/notified by the respondent company. The appellate authority in its order dated 14th July, 2022, considered the prayer of the petitioner herein, who had argued on the following points observed in its order as follows:-

“.....The union has defended their decision to challenge the order in appeal mostly on following points:-

1. There is **no principle of natural justice** while ordering of premature retirement can be made by the management;
2. Some **extraneous conditions may be misused** while ordering for premature retirement on the ground of non-performance, absence due to medical grounds etc.;
3. **Long service** of the workmen should not be thrown aside while reviewing their performance while invoking this condition.

The management stoutly argued that this is part of the Government guidelines to remove the non-performer, but it is not depriving their financial rights. The policy of the Ministry of Defence is incorporated. Adequate opportunity is given to review the cases which will fall under the above category.....”

14. **Finally, the appellate authority passed the order under challenge:-**

“Heard all parties. I upheld the decision of the Certifying Officer & RLC (C), Kolkata as decided upon, but with conditions as per the followings :

- 1. The management will frame a detailed scheme/policy guidelines with adequate safeguards taken to protect the mis-use of the provisions against any workmen as a colorable exercise of power by the competent authority.*
- 2. The policy guidelines may be kept within the domain of all workmen & the bonafide union/s.*
- 3. Since, it is a part of the Govt. police which is implemented in respect of all Govt. organizations & to remove the non-performing deadwoods, the same cannot be questioned unless blatant misuse is brought out. As such, in that case, such instances can be reviewed by a competent court of law.*
- 4. All other issues as made out by the management like non-incorporating some provision as an inadvertent error may be incorporated by suggesting modification before the Certifying officer & the RLC (C), Kolkata as the previous standing order has excelled a period of 6 months from the date of certification. In that case, the RLC (C) as authority can order for addition following the procedure as laid down under this act.*

This disposes of the appeal filed.

Given under my hand this day of 14th July, 2022.

Sd/-

**Dy. Chief Labour Commissioner (Central)
Kolkata & Appellate Authority under
Industrial Employment (Standing Orders) Act, 1946.”**

- 15.** Vide an affidavit-in-opposition, the respondent company has filed several documents in support of its action which has been challenged by the

petitioner herein. Documents at pages 114-115 of the affidavit-in-opposition are relevant. An extract of the relevant part of the said document is reproduced herein for its relevance:-

“CONSOLIDATED INSTRUCTIONS FOR

CARRYING OUT PERIODICAL REVIEW OF THE CASES OF
GOVERNMENT SERVANTS AS REQUIRED UNDER FR
56(J)/FR56(I)/RULE 48(1)(6) OF CCS (PENSION) RULES, 1972.

Various instructions issued by the Government from time-to-time on the subject deal with compulsory retirement under the above mentioned provisions.

2. The Supreme Court has observed in the **State of Gujarat Vs Umedbhai M. Patel, 2001 (3) SCC 314**, as follows:-

*(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 un-communicated 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.

3. Accordingly, DOP&T has issued instructions vide their OM, dated 21.03.2014, 11.9.2015, 01.03.2016 for review & monitoring regularly such cases under FR 56(j) FR56(I)/RULE 48(1) (6) OF CCS (PENSION) RULES, 1972, by all the offices under the central government and sending the reports periodically.”

16. The document dated 30th May, 2026 lays down several other conditions.

The next document is at page 121 of the affidavit-in-opposition, wherein it appears that in the said office memorandum dated 10.07.2019, it has been directed as follows:-

“Subject: Strengthening of administration-Periodic review of Central Government Employees under Fundamental Rule (FR-56(j) and rule 48 of CCS (Pension) Rule, 1972.

*The undersigned is directed to refer DoPT OM No. 25013/3/2019-Estt.A-IV dated 20.06.2019 (copy enclosed). All Ministries/Departments have been requested therein to undertake the periodic reviews in letter and spirit, including in CPSEs (Executives & Non-executives **instead** of Group A, B, C & D as prescribed in DoPT format) under their administrative control.”*

17. At page 122 is an office memorandum dated 20th June, 2019 wherein at clause-4 the Ministry has directed as follows:-

“4. The Ministries/Departments should ensure that the prescribed procedure like forming of opinion to retire a Government employee prematurely in public interest is strictly adhered to, and that the decision is not an arbitrary one, and is not based on collateral grounds as per the order of the Hon’ble Supreme Court in case of UOI & Col. J.N. Sinha [1571 SCR (1) 791].”

18. In reply the writ petitioner has relied upon a document at page 17 of their affidavit-in-reply, wherein by an office memo it has been held at point 2 as follows:-

*“2. It has now been decided that PSUs may incorporate suitable provisions in their CDA Rules/Service Regulations on the lines of FR 56[J] in the Government with a view to weed out the inefficient, corrupt and medically unfit officials after **attaining the age of 50 years. This rule would, however not apply to employees covered under the Industrial Disputes Act 1947.**”*

19. At page 18, the petitioner has relied upon Chapter-II relating to personnel policies from the **DPE/Guidelines/II(f) 10** wherein it has been noted as follows :-

“CHAPTER II
PERSONNEL POLICIES

(f) Conduct, Discipline & Appeal Rules

DPE/Guidelines/II(f)/10

10.

Procedure for premature retirement of employees in Public Sector Undertakings-provisions in the CDA Rules-regarding

The Undersigned is directed to say that the question of incorporating suitable provisions in the CDA Rules in regard to premature retirement of inefficient, corrupt and medically unfit officials in PSUs has been engaging the attention of the Government. This issue had also been raised by the Central Vigilance Commission and the Department of Personnel and Training. In view of this, as well as the importance of weeding out the inefficient, corrupt and medically unfit officials of PSUs, a review has been carried out in this regard in consultation with the Department of Personnel and the Ministry of Law & Justice.

*2. It has now been decided that PSUs may incorporate suitable provisions in their CDA Rules/Service Regulations on the lines of FR 56[J] in the Government with a view to weed out the inefficient, corrupt and medically unfit officials after attaining the age of 50 years. **This rule would, however not apply to employees covered under the Industrial Disputes Act 1947.** In this connection, the rules framed by SAIL are worth considering and a copy of it is enclosed (Annexure).*

3. Ministry of Agriculture etc are requested to bring the contents of this OM. to the notice of PSUs under their administrative control for information and necessary action under intimation to BPE.

(BPE O.M. No. 15(39)/84-GM dated 4th February, 1988)

- 20.** The policies relate to another public undertaking that, is the **Steel Authority of India** and being relevant is reproduced herein:-

“STEEL AUTHORITY OF INDIA LTD.

Procedure for Premature Retirement of Executives

In accordance with clauses 4.3 & 6.2** of the Voluntary Retirement Scheme, **an executive** who has attained the age of 50 years and is considered to be medically unfit, inefficient or of doubtful integrity, may be prematurely retired by the competent authority viz. Chairman.*

The criteria for judging the medical unfitness, inefficiency or doubtful integrity of executives proposed to be prematurely retired, was clearly laid down.”

21. On hearing the learned counsels for the parties and on perusal of the materials on record, including the orders and the scheme under challenge and the judgments relied upon, it appears that the Premature Retirement Scheme for Unionized Employees, dated 12.04.2025 issued by the respondent company is based on the order issued by the Government of India, Ministry of Defence, at page 114-115 of the affidavit-in-opposition. **The total case rests on the said documents.**
22. It appears from the said documents, at clause 2 that the said scheme has been framed on the basis of the direction of the Supreme Court in **State of Gujarat vs. Umedbhai M. Patel** reported in **2001 (3) SCC 314**. The said guidelines of the Supreme Court being relevant is required to be discussed in this Judgment.
23. The Supreme Court on considering similar cases was deciding a case of **an Executive Engineer** in the Narmada Development Department. State of Gujarat was the respondent before the Court. **The Court finally laid down the principles relating to compulsory retirement. Paragraph 11** of the judgments reads as follows:-

“11. The law relating to compulsory retirement has now crystallized into definite principles, which could be broadly summarized 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.”*

24. From the judgment relied upon by the Ministry concerned of the Government of India, it appears that it has been categorically stated in the opposition that the order is on the basis of the said judgment which laid down the principles in respect of compulsory retirement of **officers**.

25. The Judgment is very clear that the same does not apply to any other category of employee who is not an officer. Admittedly, the petitioner herein, being a workers union is covered under the Industrial Disputes Act. Based on the orders of the Ministry, the respondent company claims to have implemented the provisions for Premature Retirement Scheme, **which has also included the workmen.**

26. In the document at page 114, which relates to periodical review of performance of Government Servants, the note at Para 4(i) is as follows:-

“4. The following procedures may be adopted for carrying out the Review:-

- (i) Review of services of **Government servants** at all levels (Group 'A', 'B' (Gazetted/Non- Gazetted) & Group 'C' including erstwhile Group 'D') on their attaining of age of 50/55 years or completion of 30 years of qualifying service whichever occurs earlier. Those who have already attained the age/qualifying service but have not been reviewed, should also be covered under this exercise except if they are retiring within one year on attaining the age of superannuation.”*

27. At Para 6(i) therein, which is the **general guidelines for review**, it is noted as follows:-

“6. GENERAL GUIDELINES FOR REVIEW:-

- (i) **Doubtful Integrity:** The officer would live by reputation built around him. If in any appropriate case, there may not be sufficient evidence to take punitive disciplinary action of removal from service.....”*

28. Thus, the said document at one place uses the term “government servant” and at clause 6(i) “The Officer”.

29. It is the contention of the respondent/company herein that they are bound by the direction of the Ministry and the Government of India and, as such, the notification is applicable to the respondent company. It is

further stated that they are bound to issue the said scheme as per the direction received from the Government/DPE.

30. On careful perusal of the direction of the Government as relied upon by the respondent company, it appears that the said instructions are based on the judgment of the Supreme Court in ***Umedbhai M. Patel (supra)***. As such, it appears that so far as the said instructions relate to the officers of the company or the undertaking, the same are valid and requires no interference. **But the same cannot apply to the workers who are not officers, as the said judgment on the basis of which the said instructions have been issued, do not apply to the workmen and is restricted only to the officers of an undertaking as DPE/Guidelines/II(f)/10 makes it clear that the said rule would not apply to employee covered under the Industrial Dispute Act, 1947, who are the workmen.**
31. Accordingly, in view of the said facts and circumstances, **the writ petitions are hereby allowed.** The orders of the Certified Officer dated 28th June, 2018 and the order of the appellate authority dated 14th July, 2022 under challenge, only to the extent which relates to the workers/union, is hereby quashed and set aside.
32. The Premature Retirement Scheme for Unionized Employees dated 12th April, 2025, a notice issued vide reference no. HR/Estt./85/25, having been issued only in respect of **Unionized Employees (workers)** by the respondent company G.R.S.E. Ltd., is hereby quashed as a whole and set aside being not in accordance with law and against the principle of nature justice.

33. The writ applications being WPA 11764 of 2025 and WPA 20654 of 2025 are allowed.

34. There will be no order as to costs.

35. Connected application, if any, stands disposed of.

36. Interim order, if any, stands vacated.

37. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)

Later

Learned counsel for the respondent prays for a stay of the operation of this judgment. On hearing the parties, and considering the issue involved in this case, prayer for stay is refused.

(Shampa Dutt (Paul), J.)