

Jagdish Singh Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Apr-08-1999

Reported in : 1999(3)AWC2389

Judge : S.C. Verma and ;R.P. Nigam, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 302, 307 and 452; [Constitution of India](#) - Articles 14 and 311(2)

Appeal No. : Writ Petition No. 1333 of 1997 (SB)

Appellant : Jagdish Singh

Respondent : State of U.P. and Others

Advocate for Def. : C.S.C.

Advocate for Pet/Ap. : In Person

Judgement :

S. C. Verma, J.

1. The petitioner was a promotee member of the U. P. Higher Judicial Service from the cadre of Judicial Magistrates. At the time of his compulsory retirement with effect from 23.8.1997 by the order of the State Government dated 12.8.1997 on completion of his 58 years of age, the petitioner was posted at Aligarh as IInd

Additional Sessions Judge.

2. By means of this writ petition, the petitioner has challenged the aforesaid order of the State Government dated 12.8.1997 retiring the petitioner compulsorily and has prayed for quashing the said order dated 12.8.1997 as well as the resolution of the Screening Committee dated 10.7.1997. The petitioner has also challenged and prayed for quashing of the annual confidential remarks dated 12.9.1995 awarded to him for the year 1994-95.

3. According to the petitioner the impugned action has been taken against him only on the basis of adverse remarks awarded to him for the year 1994-95. The petitioner had earlier challenged the two adverse remarks awarded to him by the District Judge, Moradabad, besides the adverse remarks of the Hon'ble Inspecting Judge of the Moradabad Judgeship for the year 1994-95 by filing Writ Petition No. 21348 of 1997, Jagdish. Singh v. High Court and another, which was withdrawn and thereafter he has filed the present writ petition in which both the adverse remarks for the year 1994-95 and the action of the State Government retiring the petitioner compulsorily have been challenged. The petitioner has alleged that the Hon'ble Inspecting Judge of the Moradabad Judgeship paid an incognito surprise visit to the Moradabad Bar on 18.4.1995 and later on made annual inspection of the Moradabad Judgeship from 22nd May to 28th May, 1995. The annual confidential remarks awarded by the District Judge, Moradabad to the petitioner for the year 1994-95 are contained in Annexure-1 to the writ petition. The relevant adverse portions of the said remarks are being quoted below :

'Integrity withheld subject to opinion of Hon'ble Inspecting Judge on the note submitted to his Lordship.'

'The overall assessment of the merit of the officer has been adjudged as 'poor'. In the column of 'other remarks, if any' the District Judge has mentioned that he commanded a bad reputation.'

4. Under the heading of 'remarks' in the annual confidential remarks, the District Judge, Moradabad, has added as under :

'The accused Vineet Kumar Chauhan alias Pintu surrendered in the Court in connection with Case Crime No. 379 of 1993 of P.S. Majhola under Sections 452 and 307, I.P.C. later on converted under Sections 452 and 302. I.P.C. He applied for bail which was rejected by the then Sessions Judge, Moradabad. He was committed to the Court of Sessions by the Magistrate on 28.2.1994. After registration in the relevant register, the sessions trial was transferred to the Court of Sri Jagdish Singh, IVth Additional Sessions Judge, Moradabad, Shri Jagdish Singh granted bail by order dated 16.5.1994 ignoring the fact that the accused was refused bail twice by the Sessions Judge. Moradabad. Sri Jagdish Singh on 8.6.1994 when he was incharge Sessions Judge, Moradabad, granted bail to accused Dinesh Tillu in Crime No. 332 of 1994 under Section 302. I.P.C. P.S. Katghar ignoring the fact that he was not only refused bail but also his application for temporary ball was rejected by the Sessions Judge.'

The inspecting Judge of the Moradabad Judgeship recorded the following adverse remarks :

'Disposal adequale being 238.25 per cent. The remarks made by the District Judge in annual confidential report of the officer that the officer commanded a bad reputation of integrity is affirmed. The officer enjoyed stinkingly bad reputation as revealed in my surprise inspection made incognito on 18th of April, 1995.

Assessment of judicial performance adjudged 'poor' on the basis of my inspection note for the year 1994-95.

Integrity doubtful.'

5. The petitioner has further alleged that in the entire 30 years of his career, he had not received any adverse remark or adverse entry and had an unblemished service record. The petitioner had never been apprised about any general or specific complaint regarding the judicial work and integrity of the petitioner either by the District Judge or by the Hon'ble High Court. The petitioner has also alleged that the Hon'ble Inspecting Judge in his annual remarks rated the judicial performance of about more than 15 officers at Moradabad as unsatisfactory and about 5 of the officers as having stinkingly bad reputation. The Hon'ble Inspecting

Judge got published in local press that he would hear the complaints of the local judiciary on 26.5.1995. According to the petitioner, there was no complaint against him nor any adverse entry was informed to him by the District Judge. The Special Officer (Vigilance) had enquired in respect of certain judicial orders passed by the petitioner and came to the conclusion that there was no room for suspicion in respect of the petitioner's orders in the two bail matters referred to in the adverse remarks of the District Judge. The petitioner on the contrary was entrusted with material and substantial work by the District Judge and as many as 386 bail applications of heinous crimes were transferred for disposal in his Court from 1.7.1994 to 15.5.1995.

6. On the basis of the aforesaid allegations, the petitioner has alleged that he had never been criticised by any one of as many as 21 different District Judges under whom he had worked with regard to the quality of his judicial work and integrity. The adverse remarks of the District Judge, Moradabad and the Hon'ble Inspecting Judge of the Judgeship are based on inadequate data and the same are arbitrary and based on extraneous considerations. The petitioner made a representation against the adverse observations of the Hon'ble Inspecting Judge on 14.5.1995 and preferred a representation dated 21.10.1995 against the adverse report of the District Judge, Moradabad dated 12.9.1995. The petitioner submitted another representation dated 14.5.1996 against the adverse observations of the Hon'ble Inspecting Judge in the annual inspection note and the third representation dated 22.8.1996 against the annual remarks recorded by the Hon'ble Inspecting Judge.

7. In the counter-affidavit filed on behalf of respondent No. 2, it is stated that the representations of the petitioner dated 21.10.1995, 14.5.1996, 22.8.1996 were considered in the meeting of the Administrative Committee held on 28.2.1997 and it was resolved that the representations be rejected. The petitioner was informed accordingly through the District Judge, Aligarh, by Court's D.O. letter No. C-196/CF(A)/1997/ dated 10.5.1997. The petitioner thereafter submitted a memorial dated 4.4.1997 to the Court against the rejection of his representations referred to above. The said memorial was considered in the meeting of the Administrative Committee held on 21.5.1997 and it was resolved that the same be rejected. The petitioner was informed accordingly through the District Judge, Aligarh vide Court's

D.O. letter No. C-468/CF(A)/1997 dated 24.5.1997.

8. It has further been stated that the Hon'ble inspecting Judge sent a D.O, letter dated 20.4.1995 addressed to the Hon'ble Chief Justice stating that he paid a surprise visit to the District Judgeship of Moradabad on 18.4.1995. In the surprise visit the Hon'ble Inspecting Judge further stated that he made a round of the civil court compound Incognito, made queries from the litigants and met several advocates without disclosing his identity who revealed that the petitioner and four other judicial officers whose names were mentioned in the D.O. letter dated 20.4.1995 of the Hon'ble Inspecting Judge commanded stinking bad reputation of being corrupt. The Hon'ble Inspecting Judge thereafter made queries from the District Judge regarding the reputation of those officers including the petitioner. The District Judge confirmed that all the officers whose names had been mentioned in the aforesaid D.O. letter dated 20.4.1995 were having very bad reputation of being corrupt judicial officers. The District Judge had expressed his regrets for having not brought this fact to the knowledge of the Hon'ble Court.

9. A confidential report from the District Judge. Moradabad was also received by the Hon'ble Inspecting Judge which was sent to the Hon'ble Chief Justice for His Lordship's perusal and orders. It was submitted by the District Judge. Moradabad that on 15.4.1995 when he was on leave the petitioner in the capacity of Incharge Sessions Judge granted bail in a case of public notoriety. Besides this, the District Judge had stated that the petitioner had also connections with caucus of a few lawyers and notorious persons of the city and commanded a very bad reputation in the Judgeship. The respondents relying upon the decision of the Hon'ble Supreme Court in Review Petition No. 249 of 1992 arising out of Writ Petition No. 1032 of 1989, decided on 24.8.1996. All India Judges Association v. Union of India and others, observed as under :

'28. There is, however, one aspect we should emphasise here. To that extent the direction contained in the main judgment under review shall stand modified. The benefits of the increase of the retirement age to 60 years shall not be available automatically to all judicial officers irrespective of their past record of service and evidence of their continued utility to the judicial system. The benefit will be

available to those who. In the opinion of the respective High Courts, have a potential for continued useful service. It is not intended as a windfall for the indolent, the infirm and those of doubtful Integrity, reputation and utility. The potential for continued utility shall be assessed and evaluated by appropriate committees of Judges of the respective High Courts constituted and headed by the Chief Justices of the High Courts and the evaluation shall be made on the basis of the Judicial Officer's past record of service, character rolls, quality of judgments and other relevant matters.

29. The High Court should undertake and complete the exercise in case of officers about to attain the age of 58 years well within time by following the procedure for compulsory retirement as laid down in the respective service rules applicable to the Judicial Officers. Those who will not be found fit and eligible by this standard should not be given the benefit of the higher retirement age and should be compulsorily retired at the age of 58 years by following the said procedure for compulsory retirement. The exercise should be undertaken before the attainment of the age of 58 years even in cases where earlier the age of superannuation was less than 58 years. It is necessary to make it clear that this assessment is for the purpose of finding out the suitability of the concerned officers for the entitlement of the benefit of the increased age of superannuation from 58 years to 60 years. It is in addition to the assessment to be undertaken for compulsory retirement and the compulsory retirement at the earlier stage under the respective service Rules.'

10. The respondents have further stated that the Hon'ble Chief Justice constituted a Screening Committee which in its meeting held on 10.7.1997 considered the case of the petitioner for his continuity in service till the age of 60 years. The Committee examined the past records of service, character roll and other material relating to the petitioner who was about to attain the age of 58 years in the light of the aforesaid Judgment of the Hon'ble Supreme Court and the adverse report on the record against the petitioner. The Screening Committee was of the opinion that the petitioner was not suitable for continuance in service beyond the age of 58 years.

11. In the rejoinder-affidavit, the petitioner has denied the allegations and has alleged that the District Judge, Moradabad, had held an enquiry relating to grant of bail in Case Crime No. 379 of 1993 under Sections 452, 307 and 302, I.P.C. P.S. Majhola. In the other case Crime No. 332 of 1994 under Section 302, I.P.C. P.S. Katghar after an application for cancellation of bail was filed non-bailable warrant and notices to sureties were issued on 9.6.1994. The petitioner has alleged that prior to the impugned adverse remarks he was given no warning or advice for Improvement of his work and conduct by the District Judge, Moradabad. The petitioner has further stated that the names of the advocates and the litigants who are alleged to have made complaints against, the petitioner were not disclosed nor he was given copies of the complaints nor any enquiry was conducted.

12. On the basis of the above material on record, the petitioner who later on got himself enrolled as an advocate argued the case himself and the main thrust of his arguments appears to be that the action of compulsory retirement is arbitrary which is mainly based on the adverse entry for the year 1994-95. The adverse entry awarded to the petitioner is also arbitrary and based on irrelevant considerations and the entire action is by way of punishment and in violation of the principles of natural justice.

13. According to the petitioner, the impugned action based on a single adverse entry is illegal without making an overall assessment of his work and conduct. The petitioner further submitted that he was never apprised either in writing or orally by the District Judge or by the Hon'ble Inspecting Judge about his general or specific complaint regarding his bad reputation and integrity. The petitioner has gone to the extent in stating that the recommendations of the Hon'ble Inspecting Judge in the D.O. letter dated 20.4.1995 did not find favour of the Administrative Committee and he was only transferred from Moradabad to Aligarh. The Hon'ble Inspecting Judge was very annoyed and displeased as to why his recommendations were not accepted by the High Court despite his writing a D.O. letter dated 20.4.1995 to the Hon'ble Chief Justice.

14. The learned counsel for the petitioner placed reliance on the cases of :

1. Union of India and others v. E. C. Nambudiri, (1991) 3 SCC 38.

2. D. K. Agarwal v. High Court of Judicature at Allahabad, (1988) 3 SCC 764.

15. In the case of Union of India and others v. E- G. Nambudiri. (supra), it has been held :

'Entries made in the character roll and confidential record of a Government servant are confidential and those do not by themselves affect any right of the Government servant, but those entries assume importance and play vital role in the matter relating to confirmation, crossing of efficiency bar, promotion and retention in service. Once an adverse report is recorded, the principles of natural justice require the reporting authority to communicate the same to the Government servant to enable him to improve his work and conduct and also to explain the circumstances leading to the report. Such an opportunity is not an empty formality, its object, partially, being to enable the superior authorities to decide on a consideration of the explanation offered by the person concerned, whether the adverse report is justified. The superior authority competent to decide the representation is required to consider the explanation offered by the Government servant before taking a decision in the matter. Any adverse report which is not communicated to the Government servant, or if he is denied the opportunity of making representation to the superior authority, cannot be considered against him. See : Gurdial Singh Fijiv. State of Punjab. in the circumstances it is necessary that the authority must consider the explanation offered by the Government servant and to decide the same in a fair and just manner. The question then arises whether in considering and deciding the representation against adverse report, the authorities are duty bound to record reasons, or to communicate the same to the person concerned. Ordinarily. Courts and tribunals, adjudicating rights of parties, are required to act judicially and to record reasons. Where an administrative authority is required to act Judicially it is also under an obligation to record reasons. But every administrative authority is not under any legal obligation to record reasons for its decision, although, it is always desirable to record reasons to avoid any suspicion. Where a statute requires an authority though acting administratively to record reasons, it is mandatory for the authority to pass speaking orders and in the absence of reasons the order would be rendered illegal. But in the absence of any statutory or administrative requirement to record reasons,

the order of, the administrative authority is not rendered illegal for absence of reasons. If any challenge is made to the validity of an order on the ground of it being arbitrary or mala fide, it is always open to the authority concerned to place reasons before the Court which may have persuaded it to pass the orders. Such reasons must already exist on records as it is not permissible to the authority to support the order by reasons not contained in the records. Reasons are not necessary to be communicated to the Government servant. If the statutory rules require communication of reasons, the same must be communicated but in the absence of any such provision absence of communication of reasons do not affect the validity of the order.'

16. The dictum laid down by the Hon'ble Supreme Court supports the case of the respondents and the petitioner cannot have any grievance with regard to the communication of adverse entry and consideration of his representation in that regard.

17. In *D K. Agarwal v. High Court of Judicature at Allahabad*, (supra), the Hon'ble Supreme Court held :

'We may now deal with the adverse entry of 1986-87 made by the Administrative Judge on July 9, 1987 against the appellant. It has been already noticed that an enquiry was made by the learned Chief Justice and the allegations contained in the adverse entry have been found to be without foundation. Indeed, the learned Chief Justice recorded that he regarded Shri Agarwal as a very good, able and competent administrator with an unblemished integrity. In view of the minutes of the learned Chief Justice, the full Court was not justified in depriving the appellant of the grant of super-time scale. Apart from that, the adverse entry should not have been communicated to the appellant for his explanation on the face of the minutes of the Chief Justice. In this connection, we may refer to the proviso to Rule 4B of the Rules which, inter alia, reads as follows :

Provided that adverse remarks or strictures made by Administrative Judge about the judicial work and conduct of any officer of subordinate judiciary will be placed before the Chief Justice before issue.

.....

After considering the above facts and circumstances, we are satisfied that the appellant was entitled to a posting in the super-time scale. We modify the judgment of the Division Bench and direct that as the appellant has already retired, he shall be paid the monetary benefit of the super-time scale with effect from January 1, 1987. His pension shall be suitably altered on that basis. The payment shall be made within two months from today.'

18. This case too does not help the petitioner in any manner as the Screening Committee considered the entire service record of the petitioner besides adverse entry and thereafter the decision not to grant further extension of two years' service to the petitioner was taken.

19. The petitioner after the judgment was reserved filed an application placing on record the decision of the Hon'ble Supreme Court in the case of R. C. Sood v. High Court of Judicature at Rajasthan and others, JT 1998 (4) SC 4 and also cited the case of Ishwar Chand Jain v. High Court of Punjab and Haryana, AIR 1988 SC 1395. Although it was not obligatory for us to consider these decisions, but it would be better to deal with them in order to avoid any complication and we propose to consider the aforesaid pronouncements of the Hon'ble Supreme Court. In the case of R. C. Sood v. High Court of Judicature at Rajasthan and others (supra), the matter related to initiation of disciplinary proceedings and the Hon'ble Supreme Court held :

'.....It is but natural that highest standard of integrity is expected of and is required to be maintained by every judicial officer. It is with this in view that even though the impugned initiation of proceedings is being alleged to be for mala fide reasons that it is proper to see whether the allegations against the petitioner were such which in any way warranted the holding of a disciplinary proceeding. We have, therefore, carefully seen the report of the Committee and the complaints against the petitioner in order to satisfy ourselves whether there was any cogent material which warranted initiation of disciplinary proceedings. We do not find, after such examination, that any material existed which could justify the initiation of the impugned action.....

We have no manner of doubt that there was a complete lack of bona fides on the part of the High Court when it decided on 5th January, 1995 to institute disciplinary proceedings against the petitioner. On this ground alone the petitioner is entitled to succeed.'

20. The petitioner does not get any support from the above dictums of the Hon'ble Supreme Court as the facts on the basis of which the action was taken were altogether different and will not in any manner advance the case of the petitioner. In the case of *Ishwar Chand Jain v. High Court of Punjab and Haryana* (supra), the Hon'ble Supreme Court held :

'.....matter relating to item Nos. 1 and 2 needed further investigation and enquiry as he was not in a position to record any definite finding on the allegations made in those complaints. As regards the third complaint of Mukut Bihari Sanghi there was nothing wrong in postponing the pronouncement of the order with a view to give time to the parties to compromise the matter. Finally, as regards Khem Chand's complaint the vigilance judge did not express any opinion on the matter. The report of the vigilance Judge does not show that the appellant's work and conduct were not satisfactory or that he was not fit to act as a judicial officer. While considering this question it must be kept in mind that complaints, in respect of which the learned Judge observed that the same needed further inquiry into the matter, could not at all be considered against the appellant. If the inquiry had been held and the appellant had been given opportunity to place his version before the inquiry officer, correct facts would have emerged. But in the absence of any further inquiry as suggested by the vigilance Judge, the High Court was not justified in considering these matters in concluding that the appellant's work and conduct was not satisfactory.

.....

Under the Constitution, the High Court has control over the subordinate judiciary. While exercising that control it is under a constitutional obligation to guide and protect judicial officers. An honest strict judicial officer is likely to have adversaries in the mofussil courts. If complaints are entertained on trifling matters relating to judicial orders which may have been upheld by the High Court on the judicial side

no judicial officer would feel protected and it would be difficult for him to discharge his duties in an honest and independent manner. An independent and honest judiciary is a sine qua non for Rule of law. If judicial officers are under constant threat of complaint and enquiry on trifling matters and if High Court encourages anonymous complaints to hold the field the subordinate judiciary will not be able to administer justice in an independent and honest manner. It is therefore, imperative that the High Court should also take steps to protect its honest officers by ignoring ill-conceived or motivated complaints made by the unscrupulous lawyers and litigants.'

Even this case law does not support the case of the petitioner. On the other hand it justifies the action of the respondents based on the facts and circumstances of the case.

21. The learned standing counsel in reply to the submissions of the petitioner stated that the overall assessment of the work and conduct of the petitioner was made by the Screening Committee before taking the impugned action in the light of the judgment of the Hon'ble Supreme Court in the case of All India Judges Association v. Union of India (supra). The action of not granting extension after 58 years of age could be taken on the solitary adverse remark with regard to the integrity and conduct and has to be considered in the facts and circumstances of each case. The learned standing counsel submitted that the Screening Committee before making the recommendation to retire the petitioner at the age of 58 years, based its decision on the relevant considerations and material on record. The Administrative Committee considered the representations of the petitioner and thereafter the impugned action was taken. The action of the respondents in not allowing the petitioner to continue beyond the age of 58 years is neither stigmatic nor punitive so as to attract the provisions of Article 311(2) of the Constitution.

22. The respective submissions of the learned counsel for the parties require consideration under the law laid down by the Hon'ble Supreme Court in the landmark judgment of Sim Baikuntha Nath Das and another v. Chief District Medical Officer, Baripada and another, JT 1992 (2) SC 1.

After considering all the previous cases of the Hon'ble Supreme Court relating to the compulsory retirement the following principles were laid down :

'34. (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 fa) 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.

35. Before parting with the case, we must refer to an argument urged by Sri R. K. Garg. He stressed what is called, the new concept of Article 14 as adumbrated in

Maneka Gandhi, AIR 1978 SC 579, and submitted on that basis that any and every arbitrary action is open to judicial scrutiny. The general principle evolved in the said decision is not in issue here. We are concerned mainly with the question whether a facet of principle of natural justice audi alteram partem is attracted in the case of compulsory retirement. In other words, the question is whether acting upon undisclosed material is a ground for quashing the order of compulsory retirement. Since we have held that the nature of the function is not quasi-judicial in nature and because the action has to be taken on the subjective satisfaction of the Government, there is no room for importing the said facet of natural justice in such a case, more particularly when an order of compulsory retirement is not a punishment nor does it involve any stigma.'

23. In the case of H. C. Venkatachaliah Setty v. Union of India and others, (1997) 11 SCC 366, it has been held :

'4. It has been further urged by Shri Sunderavardan that the order of compulsory retirement could not be passed on the basis of a solitary adverse entry contained in the annual confidential report because the earlier record of the appellant was clean. Merely because till his promotion to the post of Deputy Chief Mechanical Engineer on 20.11.1974, there was nothing adverse in the service record of the appellant, does not mean that the action for compulsory retirement of the appellant could not be taken after such promotion if it is found that after such promotion there has been deterioration in his performance and an adverse remark about his integrity has been made. The contention of Shri Sunderavardan that an order for compulsory retirement cannot be passed on the basis of a solitary adverse entry in the service record cannot be accepted. The question whether action for compulsory retirement should be taken on the basis of a solitary adverse entry has to be considered in the facts of each case. Having regard to the facts of the present case, it cannot be said that action for compulsory retirement could not be taken against the appellant.'

24. The adverse remarks awarded to the petitioner are of very serious nature which reflect his integrity and conduct. In our opinion the impugned action was fully justified. A judicial officer particularly must enjoy good reputation of being fair,

honest, impartial and of high moral character. The reputation of being good in judicial work alone sometimes is not sufficient. A judicial officer has not only to be fair and meritorious in judicial work but his or her moral character should also be equally high so that he or she may get the desired respect of being a judicial officer in the eyes of the litigants in particular and the public at large in general.

25. Keeping in mind the law laid down in the All India Judges Association v. Union of India (supra), the main consideration to extend the tenure of service of an incumbent is the meritorious services rendered by him/her during the tenure of his/her service. The criteria for selection is more akin to adjudge the suitability of the candidate for promotion on merit than to terminate the services prematurely.

26. In our opinion, merely because an incumbent has received only one adverse entry, he cannot be treated as a suitable officer to entitle him as of right for further retention in service. The overall assessment of merit has to be done for grant of extension of two years' service.

27. We may also indicate that sometimes the annual remarks awarded on the conduct, reputation and character of a judicial officer may be assessed on the knowledge of the officer giving its report. The assessment sometimes may not be based wholly on the record or require to be substantiated by positive material, but the adverse remarks may also be based on the knowledge of the officer giving its report. The material placed on record fully establishes that the assessment of the petitioner's work and conduct was bad and the adverse remarks for the year 1994-95 were sufficient for the impugned action. The petitioner was afforded opportunity to represent against the adverse entries which was also considered by Administrative Committee. The memorial of the petitioner was also rejected. The assessment made by the Screening Committee was for the purposes of finding out the suitability of the officer for entitlement of the benefit of the increased age of superannuation from 58 years to 60 years. The potential for continued utility was assessed and evaluated on the basis of past record of service, character rolls, quality of judgments and other relevant matters.

28. In view of the aforesaid observations, made by us, the petitioner is not entitled to any relief.

29. The petition is accordingly dismissed. Interim order, if any, is hereby vacated.

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