
(1990) 09 DEL CK 0004

In the Delhi High Court

Case No : Civil Writ Appeal No. 1761 of 1990

Amarjeet Kaur

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 21-09-1990

Acts Referred:

Citation : (1991) 43 DLT 262

Hon'ble Judges : Usha Mehra, J;S.B. Wad, J

Bench : Division Bench

Advocate : M.C. Bhandare, Y.R. Jain, Arun Jaitley, D.N. Sawhney and Maninder Singh, for the Appellant;

Judgement

S.B. Wad, J.

(1) The petitioner was appointed as Chairperson of the Central Social Welfare Board (which is a Government Company) for a period of three years, with effect from 20.11.88, through a Government Resolution dated 16.12.88. The Resolution stated that the petitioner had assumed charge of the Office of the Chairperson on, the afternoon of 28th November, 1988. Alleging that the respondents want to terminate her appointment before the completion of three years, the present writ petition has been filed. It is prayed that the respondents be restrained from terminating her appointment before the period of three years is complete and to allow her to continue as the Chairperson.

(2) It is stated in the petition that the petitioner is a prominent social worker and a former Congress-1 member of Rajya Sabha from 1976 to 1988. It is alleged that the proposed action of termination, by the Government which has come to power in 1989, is arbitrary, illegal and vindictive. It is also stated in the petition that her services cannot be terminated merely because the party in power in the Central Government is changed. The petition further states that the proposed action against the petitioner is vocative of the principles of natural justice.

(3) In reply the respondents have submitted that the appointment of the

petitioner is merely a contract of personal service and no writ petition would lie for enforcement of such a contract. It is also submitted that the term of three years, referred to in the Resolution, is the maximum period of appointment and the respondents have power to terminate the same before the expiry of three years. It is also alleged that the petition is not bonafide.

(4) On behalf of the petitioner Mr. M.C. Bhandare, Senior Advocate, submitted that merely on change of government after elections the new Government cannot be permitted to cancel the appointments made by the earlier Government. He urged the Court to pronounce upon the legality and propriety of such actions in the wider interest of general public and good Government. The Counsel further submitted that the petitioner's appointment is an appointment to an Office under the State and constraints imposed by Article 16(1) of the Constitution on the Government equally apply in the present case. He submits that the proposed action of terminating the petitioner's appointment is arbitrary as it hits Article 16(1) of the Constitution. Relying on some decisions of the Supreme Court the counsel further submits that the principles of natural justice should be observed before the respondents take any action and the petitioner is entitled to know the reasons as to why her appointment is proposed to be terminated. The counsel submits that the petitioner was being pressurised to submit her resignation under the threat of dismissal.

(5) Mr. Arun Jaitley, Additional Solicitor General of India, has controverted all allegations of malafide and submitted that the allegation of pressure and threat for resignation were false and malicious, as stated in para 3 of the counter affidavit. He submits that the petition is premature as no action has been taken against the petitioner by the respondents. The learned Additional Solicitor further submits that the relief of a restraint order on termination of the appointment and the direction for the continuance of the appointment cannot be granted by the Court in its extraordinary jurisdiction under Article 226 of the Constitution. Contract of personal service, according to the learned Additional Solicitor, cannot be specifically enforced in any Court of law and the reliefs claimed by the petitioner are in the nature of specific performance. The learned Additional Solicitor further submits that the appointment and termination of the petitioner is in the realm of private law of Company's internal management. The learned Additional Solicitor further submits that the Supreme Court in *L.I.C. v Escorts* AIR 1986 Sc 370 has held that the actions of an instrumentality of the State which are in the realm of private law cannot be subjected to the rigour of Article 14 of the Constitution.

(6) The Central Social Welfare Board was established in the year 1953 by a Resolution of the Government of India. The Board was reconstituted as a Registered Company under the Indian Companies Act, with effect from 1.4.69. The main objects of the Company as stated in the Memorandum of Association are to coordinate social welfare activities of various Ministries of the Central and State Governments; to establish social welfare Associations on voluntary basis;

to give financial and technical aid to various Organisations and Institutions and to provide training facilities. The main area of the activity of the Central Social Welfare Board is to look after the general welfare of the public, including the family, women, children, handicapped persons, etc. The Central Social Welfare Board is wholly funded from the grants given by the Central Government and the State Governments.

(7) The original memorandum of Association was signed by four Joint Secretaries and an Additional Secretary of various Departments of Government of India. Smt. Neera Dogra, who was the then Chairperson of the State Social Welfare Board of Assam and one Smt. Raksha Sarin, a social worker, had also subscribed to the Memorandum of Association. The Articles of Association of the Company provided for the General Body of the Association, constituted of the Chairpersons of the State Social Welfare Boards, professional social workers, representatives of the Department of Women and Child Development and other connected Departments and Planning Commission; three members nominated by the Rajya Sabha and the Lok Sabha, the Executive Director of the Central Social Welfare Board and the Chairperson of the Central Social Welfare Board.

(8) Article 5 of the Articles of Association relates to the appointment of Chairperson, which reads :

"THE Government may from time to time appoint as Chairman of the Company a prominent women social worker of All India status with Administrative and Organisational abilities on such terms and on such remuneration either by wages/ salary or otherwise as it may think fit."

Article 6 of the Articles of Association provides for the appointment of an Executive Director, which reads :

" GOVERNMENT, in consultation with the Chairman of the Company shall nominate the Executive Director and the Internal Financial Adviser cum-Chief Accounts Officer of the Company on such terms and at such remuneration as it may think fit and may from time to time remove them from office and appoint others in their places."

(9) The administration of the affairs of the Company vest in the Executive Committee under Article 10. The Executive Committee consists of the Chairperson, the Executive Director, the Chairmen of four State Advisory Boards, representatives of Department of Women and Child Development and other connected departments. All programmes, schemes and projects requiring extensive funding are required to be approved by the Central Govt. under Article 13 of the Articles of Association. The main function of the chairperson is to preside over the meetings of the general body and participate in the control and management of the Company Along with the members of the Executive Committee. The Auditors of the Company are appointed by the Central Government on the advice of the Comptroller and Auditor General of India and the audited accounts are submitted to the Comptroller and Auditor General of

India. No additions or alterations to the Articles of Association can be made without the approval of the Central Government. Under Article 39 the Government of India has an over-riding power to give directions and instructions in regard to finance and conduct of business of the Company.

(10) Although the questions of maintainability of the writ petition was raised by the respondents, both parties were given opportunity to address the Court on the question of maintainability as well as the merits of the matter. The issues raised in the writ petition are in a sense *res integra* as there is no judicial decision of any superior Court. We have, Therefore, decided to render a decision on all aspects of the matter so that both the parties know as to where do they stand in law.

(11) The main contentions of the parties revolve round the question as to what is the nature of appointment of the petitioner as the Chairperson of the Social Welfare Board. Mr. Bhandare submitted that the petitioner's appointment can be described as an appointment to a Office under the State within the meaning of Article 16 of the Constitution. He submitted that the Central Social Welfare Board, a Company, is an instrumentality of the State. Therefore, appointment as the Chairperson of the Company is an appointment to the Office under the State. Counsel for both the parties agree that the said appointment cannot be described as employment as there is no master and servant relationship. The words "employment" and "appointment" occurring in Article 16(1) are judicially explained in *Sukhnandan v. State of Bihar* AIR 1957 Pat 617. According to the decision the word "appointment" to an Office implies the conception of tenure, duration, emoluments and duties and obligations, fixed by law or some rule having the force of law. The terms and conditions of appointment of Chairperson of the Central Social Welfare Board are as follows :

"Terms and conditions of appointment of Chairman, Central Social Welfare Board
Fixed salary of Rs. 5,000.00 p.m. No Dearness Allowance/City Compensation Allowance will be admissible. Rent free accommodation up to the extent of rent of Rs.1,500.00 per month (electricity and water charge will be borne by her). Free furniture up to the extent of Rs. 6,000.00 (one-time). while on tour, travel by highest class by rail (including air-condition charge as admissible to Government servants). As admissible to non-official members. Same as applicable to a Government of India Officer of the highest grade. 7. Other terms and conditions : Same as given to a Govt. of not stated India officer drawing the same pay. The provisions of the Indian Official Secrets Act, 1923, will be applicable as in the case of similar officers. 8. Pension and Provident Fund : The appointment does not carry benefits any such benefits".

According to the said terms, the Chairperson works on a fixed salary (which is now called honorarium) of Rs. 5,000.00 per month with the benefit of free accommodation and furniture. She is entitled to T.A., D.A. and the medical facilities also. Other terms and conditions are the same as given to the Government of India Officers drawing the same salary. The Chairperson is not

entitled to any pension or provident fund. 12. From the terms and conditions of appointment, stated above, it is clear that there is no regular tenure of service, nor there is any cadre of service. The Chairperson's post is a single isolated post on a fixed honorarium of Rs. 5000.00 per months. An appointment to an office under the State confers certain status which enables an incumbent to post-retiral benefits such as pension and provident fund, in recognition of the service rendered during the tenure. It may thus be seen that the petitioner's appointment does not have any characteristics of an appointment to an Office under the State. What distinguishes the appointment to an Office under the State is that the conditions of service such as tenure, emoluments, post-retiral benefits, etc. are laid down by law or the rules having the force of law. This is singularly lacking in the case of appointment of the Chairperson of the Central Social Welfare Board.

(13) Counsel for the respondents submits that the appointment of the petitioner as the Chairperson of Social Welfare Board, which is only a Company, is in the nature of contract of personal service, within the internal management of the Company and regulated by private law of contract of employment. However, is this assertion correct ? The appointment of the petitioner is by a resolution of the Central Government. There is neither an appointment order nor a warrant of appointment, as in the case of holder of a public office. In passing the Resolution the Central Government has not acted for and on behalf of the President of India. The Central Government is also not authorised by any Statute or a Rule having the force of law to make such an appointment. The said power of appointment is wholly conferred by Memorandum of Association of the Company. The Company has a distinct legal entity from the Central Government. In other words the Resolution of the Government in question is the Resolution of the Company itself.

(14) On analysis of different aspects of the appointment presented by both the parties, it appears that the appointment is akin to a contract of personal service with special qualifications, having some flavour of the public office.

(15) As noted above. Article 5 of the Articles of Association lays down special qualifications for a person to be appointed as the Chairperson of the Company. Only a woman can be appointed as the Chairperson. She should be a prominent social worker. She should be so prominent as to have All India status. It is also necessary that the Chairperson has administrative and Organisational abilities. These qualifications are not the general or normal qualifications laid down for high appointments in Central Government. A Secretary of the Ministry of Human Resource Development, who represents the Central Government, would be an Ias Officer. But this is a general qualification. On transfer any other Ias Officer can take the place of the erstwhile Secretary, being also an Ias Officer. If it is a normal/usual employment the qualification could have been a degree in Social Work and experience in the particular field of Social Work. On the other hand the qualifications mentioned for the Chairperson are so unique that very few people will fit in these qualifications. It is entirely for the Government to decide whether

a particular woman is a prominent social worker and whether she enjoys All India status for the purpose. So also, it will be within the satisfaction of the Government to decide whether such a woman has adequate administrative experience and organisational abilities. There are no details nor any guidelines furnished to the Government to decide as to who would be a suitable woman to be appointed as the Chairperson. Considering the importance of Social Welfare Board, which was originally constituted by a Resolution of the Central Cabinet to implement the social objectives of the Five Year Plan, it can safely be said that the appointment of a Chairperson is in the realm of high Governmental discretion. The uniqueness of the position of the Chairperson also flows from the fact that the powers and functions of the Social Welfare Board are entwined with the policy framework of social welfare programme of the Government. The suitability of woman social worker as a Chairperson is, thus, inevitably controlled by the ability of such a person to professionally comprehend the framework of the social welfare programmes and their effective implementation.

(16) Can any fetters be imposed on the discretion of the Government in the choice of a woman for appointment to the post of Chairperson ? Can it be subjected to judicial scrutiny on the ground of rationality and fairness ? Can any social worker challenge the appointment of Chairperson on the ground of discrimination on the ground of sex ? Is it legally permissible to get a declaration from the Court that a particular woman social worker is not a social worker at all but is a mere party worker ? Can a Court strike down the appointment on the ground that the Chairperson is not a prominent social worker of All India status ? Can the Court sit in judgment as to whether the Chairperson has administrative and organisational abilities ? The petition merely describes the petitioner a "prominent social worker". Her further particulars given in the petition are that she was a former Congress-1 member of Rajya Sabha from 1976 to 1986. The petition does not describe the standing of the petitioner as a social worker or the area or field of social work which she specializes .It is not even asserted that she is a prominent social worker of All India status. The petition is silent about the administrative and organisational abilities of the petitioner. On these facts, can a co-warrantor writ be pressed in the Court on the ground that the petitioner does not fulfill the requirements of Office ? Can a Court grant a declaration that there was non-application of mind by the Government or that the discretion has been improperly exercised ? What is true about the discretion of the Government in the appointment as a Chairperson is equally true about the discretion of the government in the removal of the chair- person. Power to appoint includes the power to remove. Counsel for the petitioner submits that the petitioner has fundamental right to hold the post for a fixed period of three years. The further submission is that she cannot be removed from Office without any reason or arbitrarily or out of considerations of political vandatta. On closer analysis it would be send that these submissions are misconceived. There is no fundamental right in the petitioner to any post. She has no fundamental right to hold the post for a fixed period of three years. The period of three years mentioned in the

Resolution is the maximum period or outer time limit to continue to the post. In other words, the Articles of Association tell the Government that a Chairperson cannot be appointed for a period longer than three years. It does not create any right, much less a fundamental right, in the incumbent of the Office to continue in the office for a period of three years. Beyond the limitation the Govt. not to exceed the period, there is no sanctity to the term of three years mentioned in Article 5. If the duration of three years is so sacrosanct, it would not be possible for the petitioner on her own to relinquish the office before the completion of the period of three years. It would also not be possible for the respondents, in law, to insist that the petitioner must continue for the full term of three years. This being the nature of the duration of appointment, it is neither possible for the petitioner nor for the respondents to enforce the term by legal proceedings, such as the writ petition.

(17) The discretion of the Government in appointment as well as removal is untrammelled. It is in public interest because it is part of the policy (and its implementation), laid down by the Government. It must be recognised that each political party which forms the government comes into power with promises and assurances in regard to social, political and economic welfare of the people. (For example, a party in power at a given time may have its distinct policy and programme for upliftment of poor or representation and protection to women. The five year plans which are sponsored by the Government would reflect the areas of priority of social welfare.) The programmes and the plans for the implementation of the policy would be administered by the Social Welfare Department of the government themselves and through the agencies like the Social Welfare Board. The change in the social policy and programme with the democratic change of the rulers are, thus, part of our social life. The policies and programmes and priorities shift with the change in the Government and such a change must be presumed to be in public interest so long as the government is in power. The change in the personnel in special positions such as Chairperson of the Central Social Welfare Board are, Therefore, inevitable part of a change in the policy and programmes. If a democratically elected government, Therefore, feels that for effective implementation of its policies and programmes a change in the personnel is necessary, it cannot be accused of malafide or pursuing an act of vendatta.

(18) The requirement of law that the exercise of discretion should be based on reason and should avoid arbitrariness, (after long and tenuous journey through case law,) has assumed pivotal position in administrative law. It is a truism that administrative law develops according to the needs of the administration. But, judicial review of administrative action springs into action where the citizens are harassed by high-handed administrative actions. There is a wide gap between the bonafide use of discretion and high handed and oppressive administrative actions of the Executive. For proper appreciation of the exercise of discretion several angles of administrative action are required to be considered. One of the considerations would be the nature of administration and its set up. Higher

degree of discretion is required to be recognised in armed forces so as to maintain discipline and unflinching obedience. The freedom of expression of opinion is a matter of high discretion in the judicial administration as well as in research institutes. A dissenting action or expression cannot be tolerated in the armed forces while the same is welcomed and encouraged in the exercise of judicial discretion. The nature of discretion also changes according to the situations and circumstances. It also depends upon the person or the authority exercising the discretion. In case of appointment or removal of incumbents in the offices having public importance, much depends upon the nature, and importance of appointment and the policy considerations. In the Judges case (S.P. Gupta Vs. President of India and Others,) the Supreme Court held that no direction can be issued to the Union of India to appoint the number of High Court Judges commensurate with the increase in the work load. The Court found that this was an area of discretion where the Court cannot give any directions. The Court also refused to look into the reason or the merits of the government decision is not giving permanent appointment, to two Judges of the Delhi High Court. It may, thus, be seen that the requirement of stating reason or demonstrating that the action is not arbitrary are not a straight jacket. Even in case of a normal governmental function, there are certain areas of administrative action and there are special occasions when a certain amount of freedom of action must be left with the Government in public interest. This is what the Supreme Court laid down in *Lic v. Escorts* (supra). The five Judge Bench of the Supreme Court clarified. "We do not consider Article 14 as a charter for judicial review of State actions and to call upon the State to account for its actions in its manifold activities by stating reasons for such action". The Bench has referred to some areas of activity of the State which would not be subjected to the rigour of Article 14. But the list is not exhaustive. The Bench has also observed that the Courts would refrain from examining the actions pertaining to private law field. In that case, LIC. as an instrumentality of the State, had played an ordinary role of shareholder, which the Bench found was in the field of private law. The Bench has further observed that the Court will not ordinarily examine the obligations arising out of contract. We have already held that the Chairperson's appointment in the present case is more akin to the contract of special personal service with special qualifications.

(19) The special feature of the five Judge decision in the *Lic* case is that it shows abundant awareness of special needs of administration in protecting the public interest. The Judgment sets at rest wide generalisation on the theory of arbitrariness of government actions, unwittingly attributed to the previous decisions of the Supreme Court.

(20) At the commencement of the arguments Mr. Bhandare, appearing for the petitioner, had tried to draw support from some observations of the Supreme Court in *Central Inland Water Transport Corporation Limited and Another Vs. Brojo Nath Ganguly and Another*, . He also referred to *O.P. Bhandari Vs. Indian Tourism Development Corpn. Ltd. and Others*, and *M.K Aggarwal v. Gurgaon*

Gramin Bank in support of his submission that an instrumentality of State cannot act arbitrarily in matters of termination of service. In *Central Inland Waters*, employment Rule permitting termination of services of a permanent employee, was found to be unconscionable and based on managerial bargaining power. *O.P. Bhandari and M.K. Aggarwal* concerned with similar situation and followed *Central Inland Waters*. Since the appointment as a Chairperson of the Central Social Welfare Board was, admittedly, not an employment, this line of submission was not found useful by the counsel. Mr. Bhandare then referred to some other decisions relating to termination of temporary government employees and similar cases. These cases also have no relevance since they relate to the cases of government servants and cases of persons working in temporary capacity. We have already held that holding of a post of Chairperson of Central Social Welfare Board is neither employment nor an appointment to an Office under the State. It has its own special characteristics. Therefore, the recent decision of Supreme Court in *Dtc v.DTC Mazdoor Congress* pronounced on 4th September, 1990 striking down Regulation 9(b) has also no bearing in this case.

(21) Amongst the decisions cited by the learned Additional Solicitor (for the proposition that the power of appointment includes the power to remove), there is a case of the removal of the Bar Council of Delhi Vs. Bar Council of India, . But this decision also has no direct bearing on the present case because it concerns with powers of the General Body, electing the Chairman of the Bar Council, to remove him. In support of the submission that the contract of personal service cannot be specifically enforced the learned Additional Solicitor referred to *Executive Committee, U.P. Warehousing Corporation Vs. Chandra Kiran Tyagi*, . The law on the question is well-settled. After reviewing the English as well as the Indian decisions in para 23 of the Judgments, the Supreme Court has summarised the law. The Court held :

"NO declaration to enforce a contract of personal service will be normally granted. But there are certain well-recognised exceptions to this rule and they are : To grant such a declaration in appropriate cases regarding (1) a public servant who has been dismissed from service in contravention of Article 311; (2) reinstatement of an dismissed worker under Industrial Law by Labour of Industrial Tribunals; (3) A statutory body when it has acted in breach of a mandatory obligation, imposed by statute."

These observations of the Supreme Court are helpful in deciding what relief can be granted in the present case. But a decision which has direct relevance and is strongly relied upon by the learned Additional Solicitor is one which is rendered by the Division Bench of this Court in *Ghanshyam Singh Vs. Union of India and Others*, . Under the provisions of the Multi-State Cooperative Societies Act 1984 and the bye-laws, the Government has powers to nominate Directors on the Board of Directors of Indian Farmers Fertilizer Cooperative Limited. The petitioner was nominated as a Director on 30.3.1988. On 19.12.1989 the original nomination was superseded and respondent No .3 was nominated as a Director

by the Central Government. The nomination of respondent No. 3 was challenged inter alia on the ground that the Office of the nominated Director is either an employment or an appointment to an Office under the State and the removal of the petitioner was in violation of Article 14 of the Constitution. It was also alleged that after the new elections Shri Devi Lal, the then Deputy Prime Minister of India, mala fide superseded the nomination of the petitioner. Both the challenges were turned down by the Division Bench of this Court. The Bench held that the petitioner had no fundamental right to the post of a Director. The petitioner cannot invoke protection of Article 14 as he neither held an employment nor appointment to an Office under the State. The Division Bench further held that the nomination as a Director was within the subjective satisfaction of the Central Government. It was clarified that u/s 41(3) of the Act a person nominated by the Central Govt. holds the office during the pleasure of the Government, by which he has been nominated. The Division Bench further held that the allegations of mala fide were too vague and were not substantiated. The Division Bench, Therefore, held that the said nomination of a Director cannot be faulted and cannot be reviewed judicially. A SLP against the said decision was dismissed by the Supreme Court. In *Ghanshyam* the power to nominate at the pleasure of the govt. was conferred by the Statute. But there are cases where a similar power is conferred by Articles of Association of a govt. company. In *G. Karunakaran-v.State of Kerala* (1987) (61) Comp cas (334) the question was whether the Governor had the power to remove a Director appointed on the Board of Directors of Kerala State Cashew Development Corporation (Company). Article 8 of the Articles of Association provided that the appointment of a Director should be made by the Governor and the Director should hold Office during the pleasure of the Governor. The Kerala High Court held that power to remove a Director was within absolute discretion of the Governor and the order of removal could not be challenged unless it is shown that it was mala fide or against the public interest.

(22) It may be noted that in the said decisions power to appoint or nominate a Director was conferred on the Govt./Governor in its widest amplitude without any restrictions or limitations curtailing the discretion. In both the cases the Courts refused to read any limitation on the power of appointment or the power of removal. Where amplitude of the power or the discretion is in question, what is necessary to be ascertained is whether there are any expressions curtailing, limiting or circumscribing the exercise of the power. It may further be noted that in neither of the said two cases the Courts permitted any challenge on the ground of violation Article 14 of the Constitution. On closer examination of the respective provisions in the said two cases it would be apparent that the Government/Governor had absolute power to determine the qualifications necessary for the person to be appointed as the Director and the position of Director was akin to the contract of personal service.

(23) Even assuming with the petitioner that there was an element of public service in the appointment as the Chairperson of the Central Social Welfare

Board, the dominant feature viz. special service with special qualification cannot be ignored. Article 310(2) provides for a situation somewhat similar to what obtains in the case before us. Article 310(1) enunciates the general doctrine of holding office during the pleasure of the President/Governor. Sub- Article (2) provides:-

"NOTWITHSTANDING that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor of the State, any contract under which a person, not being a member of a defense service or an All-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or the Governor as the case may be, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post".

(24) It has been held in *Mohan v. Pepsu* Air 1954 Pepsu Pg. 136 (143), that since Article 310(1) has an overriding effect over the provisions of any contract, the government is free to terminate the services of the employee before the expiry of the contractual period and without payment of compensation. Clause (2) of Article 310 not only recognises an absolute right of the Government to terminate a contract for securing services of a person having special qualifications, but further codifies the common law of payment of damages. The damages are awarded because no specific performance of a contract of personal service with special qualifications can be specifically enforced in a Court of law. Clause 2, Therefore, obligates the Govt. to pay compensation if before the expiration of an agreed period the post is abolished or where for reasons not concerned with any misconduct on his part, a person is required to vacate the post. The said provision of the Constitution makes it clear that the contract of service requiring special qualifications, is a separate class of posts and it is not governed by the provisions applicable to the employment or appointment to an office under the State, such as Article 16(1) of the Constitution. In other words, contract for securing the benefit of special qualifications does not confer any status upon a person and he is entitled only to compensation, the remedy provided in the law of contract. Article 16(1) and Article 14 do not override Article 310(2) of the Constitution.

(25) To summarise, the appointment of a person as the Chairperson of the Central Social Welfare Board is neither an appointment nor an employment under the State. The Government has absolute discretion in the appointment and removal of such a person. There is no vested right in the Chairperson for continuing to hold the appointment for the entire period of three years. Although there is some element of public office the nature of appointment of a Chairperson is more akin to the contract of special service with special qualifications. In case of premature termination the only right which the Chairperson has is to claim

compensation for the unexpired period.

(26) Counsel for the petitioner, however, submits that compensation is not an adequate relief as the removal affects the dignity of the petitioner and the status of high office. As a matter of fact, the counsel submits, that the petition has not been filed to secure any monetary gain. It is well-settled principle of law that for merely vindicating the dignity of a person or an office no legal remedy is available. In any case the extraordinary remedy of a writ petition cannot be invoked for vindicating ones honour. Where it is within the absolute discretion of the Government to confer the alleged dignity or status, it is implied in the said discretion that the so-called dignity or status can also come to an end in the exercise of the said discretion. It is the Government which in its discretion treated the petitioner as a "prominent social worker of all India status" and attributed adequate "administrative and organisational abilities". After all the petitioner has not objectively established that she possesses any such qualifications. The suitability for the appointment to the said office of the Chairman, Central Social Welfare Board is inseparably connected with the policy framework of the Government. Every loss of office, whether high or low creates subjective feeling of loss of social position. But here the considerations of high administrative discretion and policy transcend personal emotions of loss of status of the petitioner.

(27) This takes us to the last submission of the learned Additional Solicitor. It is submitted that the writ petition is, prima facie, premature as the respondents have not passed any order prejudicial to the petitioner. It is also submitted that the petitioner cannot seek specific performance or claim any declaration or injunction for continuation in the Office. It is then submitted that the Court will not exercise/its extraordinary jurisdiction in futility as at this stage no order of any practical consequence can be passed by the Court.

(28) We have already rejected the submission of the counsel for petitioner in regard to violation of the fundamental rights of the petitioner, including the rights under Articles 14 & 16(1) of the Constitution. We agree with the learned Solicitor that since there is no adverse order passed against the petitioner, there is no cause of action at present and the petition is premature. It is well-settled proposition of law that where the Court is not inclined to grant specific performance, it cannot also issue a declaration or grant an injunction. The reliefs claimed by petitioner are in the nature of specific performance, declaration and injunction.

(29) As we have held that the post of the Chairperson of the Central Social Welfare Board is a unique post and the suitability of the person for appointment or unsuitability of a person for retention are within the realm of policy and absolute discretion of the Government. We cannot grant any reliefs claimed by the petitioner.

(30) Mr. Bhandare, counsel for the petitioner, earnestly urged that removal of

persons in high positions after change of government is abuse of power and the Courts should stop it. Even if the complaint is true, we are afraid we cannot venture to tread in the area of political morality and propriety .We cannot claim any special experience or expertise in political matters. Our duty is over when we attend to the question of legality of an action, to the best of our ability and judgment.

(31) The writ petition is dismissed. The rule is discharged. There shall be no order as to costs.