(2022) 11 DEL CK 0051

In the Delhi High Court

Case No : Civil Writ Petition No. 2814 Of 2006

Gyan Prakash APPELLANT

Vs

Delhi Transco Ltd. RESPONDENT

Date of Decision : 11-11-2022

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 14
Central Civil Services (Conduct) Rules, 1964 — Rule 3(1)

Citation : (2022) 11 DEL CK 0051

Hon'ble Judges : Anu Malhotra, J

Bench : Single Bench

Advocate : Ajeya Bhardwaj, Avnish Ahlawat, N.K.Singh, Siddhant Tyagi, Palak Rohmetra

Final Decision : Dismissed

Judgement

Anu Malhotra, J

1. The petitioner Gyan Prakash, vide the present writ seeks directions to the effect:

“a) a writ, order or direction including the appropriate writ quashing the impugned order dated 20.04.05 of compulsory retirement;

b) issue an order or orders including a writ of mandamus directing the respondent authorities to take back the petitioner retrospectively from the date of order of compulsory retirement;

c) to issue an order or direction including the appropriate writ, quashing the memo dated 18.02.2005 wherein the respondent has started a fresh case to victimize the petitioner just before passing the order of compulsory retirement;

d) to issue an order or writ directing the respondents to count the previous service i.e. from 1973 to 1991 of the petitioner as part of the total service and give all the benefits including benefit of salary, seniority, back wages etc.;

e) Such other further order which this Hon’ble Court may deem fit and proper.

2. Notice of the petition was issued to the respondent and accepted by the respondent.

3. Submissions were addressed on behalf of either side by the learned counsel for the petitioner and the Standing Counsel for the respondent, i.e., Mr.Ajeya Bhardwaj, Advocate for the petitioner and Ms.Avnish Ahlawat, the Standing Counsel for the respondent.

4. The petitioner, the former Manager (EDP) of the Delhi Vidyut Board during the year 1996 to 1998 in relation to disciplinary proceedings initiated against him under Rule 14 of the CCS (CCA) Rules, 1965, vide memo No.230-235/99-Vig/AJ/AVO-I/333 dated 2.6.2000 was charged qua the Articles of charge framed against him which read as under:

“ARTICLE 1

That Shri Gyan Prakash, Manager (EDP) while working as such in EDP Deptt. of Delhi Vidyut Board during the year 1996—98 with malafide intention, ulterior motive and in grave derelictionof duty did not take proper and effective security measures to limit the access to the data base system with the result that data fed in the computer came to be manipulated and fake entriescame to be posted in a manner that there was no way to identify the guilty officials who manipulated the data and fed fake entries in the computer, which is a misconduct grave enough warranting imposition of stiff major penalty upon the said Shri Gyan Prakash.

ARTICLE-2

That the said Shri Gyan Prakash while working as aforesaid during the period aforesaid at EDP functioned in a highly irresponsible and in a manner highly prejudicial to the financial

interest of Delhi Vidyut Board whose overall interests he was duty bound to protect which again is a misconduct grave enough warranting imposition of stiff major penalty upon him.

By his aforesaid acts Shri Gyan Prakash failed to maintain absolute integrity and devotion to duty and acted in a Manager Highly unbecoming of an employee of Delhi Vidyut Board contravening thereby Rule 3 (1) of CCS (Conduct) Rules, 1964 as applicable to Board employees.”

5. On a consideration of the reply dated 28.4.2004 by the petitioner herein along with all the facts and circumstances of the case as per the Meeting of the Board of Directors dated 11.3.2005 and the personal hearing granted to the petitioner on 22.9.2004 by the CMD, the Board of Directors of the respondentheld the petitioner liable to be imposed with the major penalty of compulsory retirement which was accordingly imposed on him.

6. The findings in the impugned order dated 20.4.2005 in relation to Articles I and Article II read as under:-

“ARTICLE-I

That Shri Gyan Prakash, Manager (EDP), while working as such in EDP Department of Delhi Vidyut Board during the year 1996-98 with malafide intention, ulterior motive and grave dereliction of duty did not take proper and effective security measures to limit the access to the data base system with the result that data fed in the computer came to be manipulated and fake entries came to be posted in a manner that there was no way to identify the guilty officials who manipulated the data and fed fake entries in the computer, which is a misconduct grave enough warranting imposition of stiff major penalty upon said Gyan Prakash.

ARTICLE-II

That the said Shri Gyan Prakash while working as aforesaid during the period aforesaid at EDP functioned in a highly irresponsible and in a manner highly prejudicial to the financial interest of Delhi Vidyut Board whose overall interests he was duty bound to protect which again is a misconduct grave enough warranting imposition of stiff major penalty upon Shri Gyan Prakash.

And whereas, on denial of the charges by Shri Gyan Prakash, a departmental inquiry was ordered to be conducted. The Inquiry Authority submitted the report and held the first article of charge as "PROVED" and second as "NOT PROVED".

And whereas, enquiry report, alongwith Central Vigilance Commission's OM No-99-DVB-049- 4344 dated 11.03.04 was forwarded to Shri Gyan Prakash vide memo dated 05.04.2004. Shri Gyan Prakash submitted his reply dated 28.04.04 against the memo dated 05-04.2004.

And whereas, personal hearing was granted to Shri Gyan Prakash on 22.09.2004 by the CMD.

And whereas the Board of Directors of Delhi Transco Limited carefully considered the reply dated 28.04.04 of Shri Gyan Prakash alongwith all the facts and circumstances of the case in its meeting dated 11.03.05. It is observed that the Charged Officer (CD) has argued that there was no need of password at user level and that the existing system to its full capacity it is essential that officials at each level perform their duties as per the norms of the system- Thus the CO has tried to shift the blame on the user of the system instead of accepting that he could not devise measures so as to stop the cases of fraudulent manipulation of the system- In view of the gravity of the charged and lapses on the part of the CO leading to huge financial loss to the organization, the Board has resolved to impose the major penalty of compulsory retirement on Shri Gyan Parkash.

Now Therefore, the undersigned communicates the above decision of the Board accordingly.”

7. The petitioner vide the present petition submits that he had joined the respondent as a Manager (EDP) in September, 1991, through the UPSC and prior to that the petitioner had worked in the Ministry of Defence, Home, Environment and Forest since 1973 and that the petitioner worked as Manager (EDP), Operations, with the respondent from October 1991 to December, 1996 and was thereafter posted as Manager (Systems) in January, 1997 and remained as such till September, 1998 and was thereafter again posted as Manager (Operations) in September, 1998 and remained with the same till December, 1999.

8. The petitioner submits that the charge of Manager (Operations) was taken from him in January,2000 and he was put exclusively for the development of the new system but that the dealings of the bounced cheques and other jobs remained with the petitioner along with the above mentioned job of developing new systems.

9. The petitioner submits that after he had taken over charge as Manager(Systems) in the year 1997 the petitioner had moved a note to the higher officials of the respondent to replace the system which was obsolete in July, 1997, and requested the respondent to do the same as early as possible but no appropriate necessary required action was taken due to the financial/ management/administrative reasons. The petitioner submits that the change of 'system' was not in the control of the petitioner and that the power of taking these kind of decisions always lies with the higher officials. The petitioner submits that after joining the post of Manager (Systems) he studied the system minutely which was ten year old and detected the discrepancies and a note dated 30.7.1997 was moved by the petitioner for the replacement of the system and that the sanction was made only after the mishaps/infirmities were reported by the vigilance department and it was delayed by about two years.

10. The petitioner has submitted that from November, 1997 till August, 1998, few frauds were reported by the Vigilance Department of the DVB, and some of them were examined by the petitioner and the report was submitted to the Vigilance Department (through the Director (EDP)) and on the basis of the reports of the petitioner the Director (EDP) was charged and placed under suspension and that on 11.10.1999, the statement of the petitioner and Mr.Rattan Lal, then Manager (Operations) , was taken by the Vigilance. The petitioner submits that on 8.5.2000, the petitioner detected a fraud of Rs.26,00,000/- approximately and the same was accordingly reported and brought into the knowledge of the higher officials and that thereafter the petitioner was served with a memo dated 2.6.2000, the contents of which the petitioner submits were shocking and baseless and that the petitioner further submits that the Memo itself indicates that he was targeted in a planned manner with mala fide intentions.

11. The petitioner submits that the contents of the Memo related to the year 1998 but it was served on him on 2.6.2000, i.e., after detection of the fraud by the petitioner which itself indicated that some higher officials in the Department

were also involved and that the detection of the fraud was against their likings. The petitioner submits that he again detected a fraud on 7.6.2000 and simultaneously took action for revamping the system related to the bounced cheques and sent a note showing the fraud. Inter alia, the petitioner submits that he duly replied to the Memo dated 2.6.2000 vide reply dated 5.7.2000 and thereafter he also forwarded a note dated 14.8.2000 for revamping the obsolete system.

12. The petitioner submits that he proceeded on leave in the last week of August 2000 and in the absence of the petitioner the investigation for the case of missing pages in the Operations Register was initiated. The petitioner submits that the charge of Manager (Operations) was handed over January, 2000 and the investigation for the alleged missing pages was initiated in August-September against the petitioner, i.e., after about a lapse of 8 months. The petitioner submits also that he resumed his duties in the first week of September, 2000 and he was interrogated along with other persons and was placed under suspension on 5.10.2020.

13. Inter alia, it has been submitted by the petitioner that he was thereafter falsely implicated in another police case which is however not subject matter of the present writ petition but it is submitted by the petitioner that this shows the act and conduct of the respondent and also shows the bias of the respondent against him. Inter alia, the petitioner submits that the sanction for prosecution in that case was given in a strange and illegal manner and was based upon investigation report submitted by the petitioner in 1998 on the basis of which the Memo dated 2.6.2000 was issued.

14. The petitioner submitted that he filed a detailed defence on participating in the inquiry in relation to the charge sheet issued on 2.6.2000 and the Inquiry Officer’s report along with the CVC recommendation was given on 5.4.2004 to which the petitioner replied. The petitioner submits further that the respondent issued another Memo dated 18.2.2005 before any decision in the inquiry against the Memo dated 2.6.2000 could be taken. The petitioner further submits that the act of issuance of a fresh memo by the respondent was with mala fide intent which is evident from the Memo itself as the Memo pertains to an alleged incident of the year 2000 and the Memo was issued after a lapse of about 5 years and nothing was done in the matter during that period.

15. The petitioner further submits that the respondent thereafter imposed the penalty of compulsory retirement on the petitioner vide the impugned order dated 20.4.2005 without a proper speaking order. Inter alia, the petitioner submits that the conclusive part of the Enquiry Officer’s report clearly showed that the respondent acted in a highly illegal manner and that the act of the respondent amounted to an arbitrary exercise of powers.

16. The petitioner’s appeal against the said order filed on 17.5.2005 was dismissed on 20.1.2006 which the petitioner submits was dismissed by the same

Board which had earlier conducted the inquiry and imposed the penalty of compulsory retirement on the petitioner. The petitioner submits further that the Inquiry Officer in his report had specifically stated that the petitioner had made efforts to replace the existing system during his tenure as Manager (System) but that due to technical limitations no steps were taken to provide the user level passwords at the user level to deter unauthorized officials to tamper the database in a fraudulent manner thereby giving room for manipulations and that the petitioner had also made efforts to replace the system in 1997 which could not be implemented due to Management/Administrative reasons and lack of funds.

17. The petitioner submits that the Enquiry Officer had specifically dealt with this aspect and had stated that the petitioner alone was not responsible for the security lapses and that the Enquiry Officer had further stated that the steps were also taken by the petitioner for revamping the security system. The petitioner further submits that the password and user level is meaningless if the apparatus is used by different persons.

18. Inter alia, the petitioner submits that the mala fides of the respondent against the petitioner are also proved from the fact that the previous service of the petitioner i.e., from 1973 to 1991 has not been counted despite the fact that the process for counting of the past service was initiated in 1997 by Pension Cell of DVB and that the same was kept pending indefinitely for the reasons best known to the respondent. The petitioner submits that the respondent has not paid a single penny to the petitioner for the last one year i.e., on the date of the filing of the petition but had deducted a sum of Rs.10,100/- against Income Tax/ TDS.

19. Inter alia, the petitioner has submitted to the effect that he was a sincere officer as is evident from the steps taken by him which he submits were to the effect:

"i) Immediately after taking over the charge of Manager (System) in January 1997. Studied the system and finding it unsuitable due to old hardware and software submitted a case for replacement of the system in May 1997 (much before reporting the case of fraud).

ii) On noticing in-efficiency in bounced cheque systems immediately reported the cases to the senior for the thorough enquiry and moved the case for revamping the bounced cheque system."

20. Inter alia, the petitioner submits that he has been accused of not providing user level password but in the sanction for prosecution it had been stated that user level passwordwas existing and had not been implemented by the petitioner in May 2001. The petitioner submits that it was a fault on the part of the other higher officials that even when they were aware of the frauds and modus operandi on the basis of investigation report of the petitioner and his repeated requests for providing additional security on these grounds they had already

charge sheeted the earlier director and subsequently suspended him from services. The petitioner also submits that even during the course of enquiry the petitioner was not supplied with the copy of all the relevant documents.

21. The petitioner submits that the report in the present case is based on Ex.S, a document which was never placed on record which itself revealed that the findings of the enquiry officer were based on extraneous considerations or evidence and that the Enquiry Officer had foreclosed his mind against the petitioner and agitated that the petitioner should be punished and did not take into consideration the evidence of the petitioner in defence nor the points raised by him in the cross-examination of the prosecution witnesses.

22. It is also submitted by the petitioner that the findings of the Enquiry Officer are not in consonance with the documents on the record and that the Enquiry report is itself perverse, biased, arbitrary and without any basis and an order based on such a report is not sustainable.

23. The petitioner has submitted further that the cross-examination of one Mr.J.S. Yadav who had admitted that no major improvements were made in the system for the period from 1989 to 1996, were overlooked by the Enquiry Officer and a report and order based such cryptic evidence cannot be sustained. Inter alia the petitioner submits that the petitioner had not been placed in the system for the period 1996 to January, 1997, and that the Enquiry Officer failed to appreciate that for any lapses for 12 months prior to the petitioner having joined cannot be imputed to him and any enquiry held for such period and an order based on the enquiry report is not sustainable.

24. The petitioner further submitted that the Enquiry Officer had failed to appreciate that the statement of witnesses who categorically stated that he was not competent to comment on the security system cannot be relied upon and that the order based on relying on such an enquiry report where evidence itself speaks volumes is not sustainable. It is also stated by the petitioner that the authorities had failed to appreciate that the system which was in operation was old and would not be replaced with the orders of the petitioner and without the consent of the Finance Department and other Higher Officials and that the petitioner has been made a scape goat for the lapses in the system which were very much within the knowledge of the authorities and thus the order of compulsory retirement of the petitioner cannot be sustained.

25. The petitioner has also submitted that the authorities had erred in accepting the report by not appreciating that the staff of the Operations was personally responsible for the fraudulent manipulations as they were competent to nullify the fraudulent manipulations by adhering to the norms laid down for running the system. The petitioner submits that Enquiry Officer had passed the orders also mechanically without following the principles of natural justice as he had failed to appreciate that the petitioner had moved different notes regarding limitations in the system. It is also submitted by the petitioner that the Articles of Enquiry are

inter related and two different findings on inter-related Articles makes the Enquiry Report contradictory and an order based on such contradiction is liable to be quashed.

26. The petitioner has further submitted that compulsory retirement is not sustainable in view of the verdict in Pritam Singh Vs. Union Of India; JT 2004 (7) SC 576 and State of Gujarat V. Umedbhai M.Patel; JT 2001 (3) SC 223. Inter alia the petitioner submits that the authorities had failed to consider that the previous records of the petitioner were unblemished and that he was an expert in his field of work.

27. The petitioner submits that even the Enquiry Officer had appreciated that the petitioner had made efforts to replace the existing system in 1997 and had observed that the same could not be implemented due to management decisions and thus a report which was in favour of the petitioner could not have been made the basis to pass an order of compulsory retirement.

28. Through the reply to CM No. 5255-56/2009 dated 31.7.2009 of the Deputy Manager (HR)-G of the respondent annexed the Officer Order dated 8.10.2008 of the Deputy Manager (Admin-G) of the respondent indicating that approval was accorded for counting of past services rendered by the petitioner, Employment No. 32780, Ex Manager (IT) with Ministry of Environment & Forest, Government of India for the period w.e.f. 31.8.1973 to 29.9.1991 for the purpose of pensionary benefits only and it was also so averred through the reply affidavit filed by the respondent to the effect that a sum of Rs.12,07,451/- had been paid to the petitioner for his past service which had also since been acknowledged by the petitioner vide a reply dated 9.7.2009. The respondent has further submitted that in view of the imposition of penalty of compulsory retirement as per the records the petitioner thus did not qualify for any retiral benefits except for the pensionary benefits as well as the death-cum-retirement gratuity. It was however submitted by the respondent, that as regards the services of the petitioner with the respondent the services rendered by the petitioner did not qualify him for any pensionary benefits. The respondent has further submitted that the criminal proceedings and disciplinary proceedings are two different proceedings though the petitioner was acquitted in the criminal case but his negligence and mala fide intention and departmental misconduct was proved during the departmental proceedings and he was held guilty of the charge. The respondent has further submitted that taking a lenient view of the matter the punishment of compulsory retirement was imposed. The respondent has also submitted that for the payment of an amount of Rs.7,21,765/- lying with the GPF Section, the petitioner had been intimated vide a letter dated 9.3.2006 and 12.4.2006 for release of the same after completion of formalities but it was the petitioner who had not responded.

29. Through the written synopsis it has been submitted by the respondent that the aspect of counting of the past services rendered in the Ministry of Defence, Office of Registrar General Ministry of Home, Foreign Research Institute,

Dehradun, Forest Survey of India, Dehradun, has been accounted for in the service and on account of compulsory retirement the petitioner has been paid pensionary benefits by counting that service in the service rendered with DTL and the only issue that remains is qua the aspect of punishment of compulsory retirement imposed on the petitioner.

30. Inter alia, the respondent has submitted through the written synopsis that the petitioner had joined the erstwhile DVB in October, 1991 and was posted as Manager (Operation) and worked on that post till 1996. From 1996 till 1998 he worked in the EDP Department of erstwhile DVB and during this period with mala fide intentions and ulterior motives and in grave dereliction of duty, he did not take proper care and did not take effective security measures to limit the access to DATA Base System, with the result the Data fed in the computer came to be manipulated and fake entries came to be posted in the manner that there was no way to identify the guilty officials who manipulated the Data and fed manipulated entries in the computers.

31. The respondent has further submitted that whilst the petitioner was working in the EDP Section he functioned in a highly irresponsible manner and in a manner highly prejudicial to the interest of the DVB whose overall interest he was bound to protect. The respondent has further submitted that the statement of conduct stipulates that vigilance investigation had revealed that in one of the cases, false payment of Rs.1,02,374/- against K. No. CL413-137127-8/IP/D-014 was posted by the staff of computer department at Shakti Sadan on 17.11.1997 at the time of billing/printing of ledger for the district and in his report the petitioner confirmed that fake payment had indeed been incorporated before printing of the ledger and the bills and the Data base was found tampered in November, 1997 and the modus operandi was also indicated. The respondent has submitted that in addition to the fake payments, fake entries were also found to have been entered in other K number files and with a view to delete the arrears for instance against K.No.SN-401-134901 l-S-007 a bill for Rs.9,82,187.99 was corrected and a payment of Rs.2,30,000/- was deposited by the consumer. The respondent has further submitted that a correction of Rs.1,24,563/- was also sent to the computer centre for crediting the account of the consumer and a fake entry to the tune of Rs.2,71,511/- under bill Correction Code 34 was also fed to K number file by the Computer Centre Staff at Shakti Sadan without any reference as a result the billing arrears against the above K number were reduced by Rs.2,71,511/-.

32. The respondent submits that this novel method adopted and various irregularities were recorded in the imputation of misconduct and a detailed enquiry was conducted and the Enquiry Officer submitted his findings on 18.11.2003 and it was held that Article I of the Charge that the charged officer did not take proper and effective security measures to limit to access to the Data base system to the extent that password was not provided at the user level was proved though charge No.II was held to have not been proved. It is stated by the

respondent further that the CVC in its report categorically stated that on the proved charge i.e. that the petitioner did not take security measures to limit to access to Data base System to the extent that a password was not provided at the user level is quite serious and therefore advised that a major penalty be imposed and the copy of the enquiry report with CVC report was submitted to the petitioner who submitted his reply and the Disciplinary Authority vide its order dated 20.4.2005 after giving personal hearing to the petitioner, imposed the punishment of compulsory retirement and it was noticed that the petitioner had pleaded that there was no need of password at user level and that the existing time to its full capacity it is essential that the official at each level should perform their duties as per the norms of the system. The respondent has thus submitted that the petitioner had tried to shift the blame on to the users of the system instead of accepting that he could not devise measures so as to stop the cases of fraudulent manipulation of the system. Inter alia, the respondent submits that in view of the gravity of the charge and lapses which resulted into huge financial loss to the organization, the punishment of compulsory retirement was imposed.

33. The respondent has further submitted that there is evidence on the record that since the system was not properly protected, the resultant misuse took place and large financial loss was made to the agencies and since this charge was proved the punishment of compulsory retirement was rightly imposed. The respondent has submitted that in view of the factum that the petitioner was given compulsory retirement he has got all his pensionary benefits including other service dues which are admissible to an individual.

34. Inter alia, the respondent has submitted through its written synopsis that during the pendency of the petition, another charge memo was served on the petitioner on 18th February 2005 with respect to his functioning as Manager (EDP) in EDP Centre, Shakti Sadan, New Delhi, during the year 1999-2000, that he with malafide intentions, instructed his subordinates to open a fresh due register for the billing month of May 1999 by copying the relevant control of status on the first page from the previous register and for re-processing of the Data of District Civil Lines for the billing cycle 9th May 1999 to cover up the fraud in which bogus Journal Edits (JE) were fed in the accounts of various consumers of District Civil Lines and District Shakti Nagar in the month of May 1999and January 2000; 52 pages of previous register were found torn in the EDP department to remove the manipulation in the Data. The respondent has submitted that the Inquiry Officer submitted his finding not proving the charge even when there was overwhelming evidence against the petitioner and that thus the Disciplinary Authority submitted a disagreement note along with the CVC report and finding of the Inquiry officer to the petitioner, which had recommended- suitable major punishment. Another order of imposing penalty of compulsory retirement was passed on 23rd April 2008. The respondent has submitted that the petitioner had accepted this punishment and has not challenged the same in the Court of Law or by filing a departmental appeal

before the Competent Authority.

35. Inter alia, the respondent submits that since the charge of the first inquiry was itself proved, the punishment of compulsory retirement which gives all benefits to the petitioner including pension, gratuity etc. was commensurate with his misconduct.

36. On behalf of the petitioner reliance has been placed on the verdicts of the Hon'ble Supreme Court in Allahabad Bank And Others V. Krishna Narayan Tewari; (2017) 2 SCC 308 and the verdict of this Court in K.L.Berwa V. DPCL and Ors.; in W.P.(C) No. 1863/1997 to contend to the effect that the prayers made in the petition be allowed.

37. On a consideration of the entire available record, the Court is of the considered view that taking into account the factum that the petitioner who was posted as the Manager (EDP) whilst working in the EDP department of the Delhi Vidyut Board during the year 1996, in grave dereliction of duty was found to have not taken proper and effective security measures to limit the access to the data base system with the result that the data filled in the computer came to be manipulated and fake entries came to be posted in a manner that there was no way to identify the guilty officials who manipulated the data and fed fake entries in the computer which resulted into financial losses to the Delhi Vidyut Board, coupled with the factum that the petitioner had not refuted that he had not got incorporated a password at the user level, as brought forth through his reply dated 28.4.2004 to the Board of Directors, that there was no need of any password at the user level and that it was for the officials at each level to perform their duties as per the norms of the system, it is apparent that there had been a dereliction in duty on the part of the petitioner and thus the decision of the Board of Directors of the Delhi Transco Limited in imposing the major penalty of compulsory retirement on the petitioner cannot be faulted. The reliance placed by the petitioner on the verdicts thus in the facts and circumstances of the cases relied upon on behalf of the petitioner in Allahabad Bank And Others V. Krishna Narayan Tewari and K.L.Berwa V. DPCL and Ors; is misplaced as the facts thereof are wholly distinguishable from the facts of the instant case.

38. As has been submitted by the respondent, that the petitioner has already been paid his pensionary benefits by counting services rendered by him in the Delhi Transco Limited, in view thereof, the prayer made in Clause (d) of the petition already stands disposed of.

39. As regards the prayers made by the petitioner seeking the quashing of the order dated 20.4.2005 of compulsory retirement and seeking back his restoration into service, the said prayers cannot be granted.

40. As regards the prayer made vide clause (c) of the petition, the memo dated 18.02.2005 was challenged by the petitioner and qua the memo dated 18.02.2005 and the order of imposition of penalty of compulsory retirement was passed on 23.4.2008 as submitted by the respondent, which was not challenged

by the petitioner neither in the Court of law nor by filing a departmental appeal before the Competent Authority and thus in view of the dismissal of the prayers made in Clause (a) and (b) of the petition herein above, the prayer made vide Clause (c) by the petitioner is also rendered infructuous.

41. The petition is thus declined.

