

(2010) 04 DEL CK 0338

In the Delhi High Court

Case No : Writ Petition (C) 10451 of 2009

Jai Prakash Narain

APPELLANT

Vs

Delhi High Court and Others

RESPONDENT

Date of Decision : 09-04-2010

Acts Referred:

Central Civil Services (Conduct) Rules, 1964 — Rule 18, 3
Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 120B, 308, 343, 384, 386

Citation : (2010) 169 DLT 166 : (2010) 5 SLR 34

Hon'ble Judges : Veena Birbal, J; Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Mahavir Singh and Arjun Mitra, for the Appellant; Viraj R. Datar, for the Respondent

Final Decision : Dismissed

Judgement

Veena Birbal, J.—Petitioner was selected in Delhi Judicial Service on 2nd November, 1992 and was assigned judicial work in May, 1993. Since then, petitioner is performing his duties as a Judicial Officer. On 13th December, 2006, petitioner was served with a "Memorandum of Charges" levelling allegations of misconduct against him. The same is reproduced as under:

ARTICLE-I

1. Sh. J.P. Narain, Member of Delhi Judicial Service, during his functioning as a Judicial Officer indulged in purchase of following properties in the benami name of his wife and his father-in-law which is disproportionate to his known sources of income.

a) Plot No. 650, Sector 23 & 23A, Gurgaon.

b) Property No. C-8/8233, Ground Floor, Vasant Kunj, New Delhi.

c) Plot of land measuring 1 bigha bearing old Khasra No. 3 Min. and New Khasra

No. 79 & 80 situated in extended Lal Dora Abadi, Village Kapashera, New Delhi.

d) Property No. C-21, 2nd Floor, Rear Portion, Hauz Khas, New Delhi.

ARTICLE-II

2. Sh. Jai Prakash Narain, Member of Delhi Judicial Service alongwith his wife, Smt. Parveen Kumari and his father-in-law Sh. Kishan Chand Sehrawat moved an application dated 27.10.1997 for obtaining Home Loan of Rs. 6 Lacs from HDFC Bank, Capital Court, Munirka, New Delhi for construction of one plot No. 650, Sector-23-23A, Gurgaon, without seeking permission from his employer, Delhi High Court. Sh. Jai Prakash Narain, Member of Delhi Judicial Service gave a declaration about pay and loan dated 27.10.1997. A loan of Rs. 5 Lacs was sanctioned in Loan A/c No. 503842.

ARTICLE-III

3. Sh. Jai Prakash Narin, Member of Delhi Judicial Service passed orders in case FIR No. 111/94 u/s 420/406/120B IPC PS Preet Vihar, complaint case No. 254/01 PS Preet Vihar filed by M/s Alaknanda Properties Pvt. Ltd. FIR No. 546/01 u/s 505(1)(2) IPC PS Shakar Pur, FIR No. 193/2000 u/s 420/120B PS Preet Vihar titled as "State v. Bhim Sain Sapra" FIR No. 807/98 u/s 420/468/471/343/308/506/384/386 IPC PS Preet Vihar titled as "State v. Ramesh Sharma", after receiving bribe/extraneous consideration.

ARTICLE-IV

4. Sh. Jai Prakash Narain, member of Delhi

Judicial Service in connivance with his wife Smt. Parveen Kumari, his father in law Sh. Kishan Chand Sehrawat and his brother in law Sh. Manoj Sehrawat, grabbed the plot measuring about 600 sq. yds. in Vasant Kunj, worth Rs. 3.5 Crores (approx.) belonging to Smt. Rajwanti widow of Sh. Saroopu by forging the documents. Sh. Jai Prakash Narain also pressurized Smt. Rajwanti by keeping her at a distant place near Bahadurgarh in the house of his father in law, Sh. Kishan Chand Sehrawat and forced her to sign the Compromise Deed in respect of the said plot by showing payment of Rs. 5 Lakhs in cash. Sh. J.P. Narain also managed to send Sh. Jaidev, a relative of Smt. Rajwanti to jail for 56 days, and pressurized Smt. Rajwanti to withdraw Criminal Writ Petition No. 1302/2004 filed by her.

The conduct of Sh. J.P. Narain, Member of Delhi Judicial Service, is unbecoming of a Judicial Officer. By his aforesaid acts of commission and omission, Mr. Jai Prakash Narain, Judicial Officer, has acted in contravention of the provisions contained in Delhi Judicial Services Rules read with CCS (Conduct) Rules, 1964 including Rule 3, Rule 18 and/or Canons of Judicial Ethics contained in Chapter I, Vol. IV of High Court Rules and Orders.

In case the aforesaid charges are substantiated, Sh. J.P. Narain, Member of Delhi Judicial Service, would be held guilty of grave misconduct, unbecoming of a

Judicial Officer rendering him liable to disciplinary action under CCS (CC & A) Rules, 1965.

Petitioner replied to the same denying the charges alleged against him.

2. Initially, Mr. Justice Vikramajit Sen was appointed as an Inquiring Authority to inquire into the charges levelled against the petitioner. On 19th May, 2008 the petitioner received a letter dated 17.05.2008 from respondent No. 1 wherein he was informed that Mr. Justice Vikramajit Sen had recused himself from the inquiry. On 4th July, 2008, petitioner was informed that another Judge of this Court i.e. respondent No. 3. has been appointed as an Inquiring Authority. It is stated that since then inquiry proceedings are being conducted against him by the respondent No. 3. Petitioner has alleged bias and prejudice on the part of the Inquiring Authority i.e. respondent No. 3. Petitioner has alleged that he also made a representation dated 27th February, 2009 before the Disciplinary Authority/respondent No. 2 for change of Inquiring Authority and in the meanwhile for stay of inquiry proceedings. Petitioner also filed a review/supplementary petition dated 2nd March, 2009 before respondent No. 2. Vide letter dated 26th March, 2009, petitioner was informed that his representation and review/supplementary petition have been rejected by respondent No. 2. Thereafter petitioner made recusal application to Inquiring Authority i.e. respondent No. 3 requesting him to recuse himself from the inquiry. Vide orders dated 01.05.2009 the same has also been rejected by respondent No. 3/ Inquiring Authority.

3. The case of the petitioner is that after the recusal of the

previous Inquiring Authority, inquiry is being conducted in a hasty manner without following the principles of natural justice and Statutory Rules. Some of the purported instances of bias/prejudice alleged by the petitioner against respondent No. 3/Inquiring Authority are stated herein. It is alleged that Ms. Anjali Bhardwaj (MW-1) is the material witness of establishment. Her examination-in-chief has been accepted in the form of an affidavit by the earlier Inquiring Authority. It is alleged that on 16th September, 2008, while cross-examining MW-1, petitioner wanted to put two complaints made in the name of S.K. Tyagi and S.K. Agnihotri to the aforesaid witness MW-1. But Inquiring Authority/respondent No. 3 disallowed the same by saying that these complaints be put to the witnesses when they would be called whereas the stand of petitioner is that MW1 is the author of aforesaid complaints and S.K. Tyagi and S.K. Agnihotri are non-existing persons. It is alleged that petitioner has been denied the basic right of cross-examination. It is further alleged that on 16.09.2008, petitioner also wanted to impeach the credit of the said witness i.e MW 1 by contradicting her with her previous complaints but respondent No. 3 disallowed the same by saying that the same can be read at the time of arguments. It is alleged that request of petitioner made in this regard and same being not allowed is not recorded in the inquiring record. On 17.09.2008 during cross-examination of MW-1, the petitioner moved an application for supply of

copy of statement of MW-1 dated 19.12.2002 and 21.12.2002 as the petitioner wanted to confront the said witness with the previous statement. However, the said application was disallowed. It is further alleged that deliberate effort is being made by the respondent No. 3 to prevent the petitioner from conducting an effective cross-examination of MW-1.

It is alleged that on 18.09.2008, the Inquiring Authority/respondent No. 3 passed oral orders to summon witnesses, namely, Mr. Ramesh Kumar and Mr. Chander Pal of his own accord. Further, Mr. Gian and Mrs. Bhaggo were also summoned by the Inquiring Authority without there being any request from the side of Establishment. It is alleged that the respondent No. 3 also summoned some documents during the inquiry proceedings despite the fact that same were not relied upon by the establishment/respondent No. 1.

It is alleged that on 3.12.2008 at the time of the recording of evidence of Sh. Ram Prakash MW-8, initially questions were put to him by Presenting Officer of respondent No. 1 but subsequently Inquiring Authority started putting questions to him. Examination of witness MW-8 continued on 04.12.2008 wherein the witness was confused by the constant questioning of Inquiring Authority and thus refused to answer any further questions. The Inquiring Authority ordered closure of the evidence and thereafter the witness started leaving the room. Due to constant questioning by the Inquiring Authority the witness sought adjournment and the matter was adjourned to 13.01.2009. It is stated that the said sequence of events is not mentioned in the record as to why the witness walked out of the room and how he was brought back. The petitioner moved an application for correction of the records. Reply was also filed by respondent No. 1 to the said application which is evasive and establishes the averments made by petitioner. The petitioner is not being supplied with the copy of the application filed by MW-8 and is not even allowed to inspect the inquiry records despite the fact that the application demanding the copy of said application and inspection are on an inquiry file. The petitioner is, therefore, being prevented from defending himself effectively. It is alleged that the complainants Mr. Jai Dev and Smt. Rajvanti have already withdrawn their complaints during the fact finding enquiry and Inquiring Authority is presuming them to be innocent.

Further case of petitioner is that on 19.02.2009 inquiry proceedings were held in the court room. Some police officials and staff members were sitting there to which the petitioner objected but the Inquiring Authority continued proceedings in the court room. The police officials were asked to leave the room only after a strong protest was made by the petitioner. It is alleged that on the said date, during the examination of witness MW-9, her grand-daughter who was also present started speaking from behind. The petitioner raised an objection to her presence which was over-ruled by the Inquiring Authority. Rather the Inquiring Authority construed it as obstructing the proceedings and it was also recorded in the proceedings that the petitioner was obstructing the proceedings. As the Inquiring Authority was not prepared to hear his objection, petitioner requested

for an adjournment which was not allowed. The petitioner left the inquiry after taking leave of the Inquiring Authority. However, the request of the petitioner to defer the cross-examination was not acceded to and the lawyer of the petitioner was insisted to complete the cross-examination in the absence of the petitioner. It is alleged that respondent No. 3 is inclined to build a prejudicial record against the petitioner. The petitioner moved an application dated 20.02.2009 before the Inquiring Authority for recalling the witnesses MW-9 to 11, whose evidence had been recorded in the absence of the petitioner in the manner stated above and also for inspection of the inquiry file and supply of the copy of application and affidavit filed by MW-8. Both the applications were rejected vide order dated 27.02.2009.

Considering the above, petitioner filed a representation dated 27.02.2009 and a subsequent representation dated 02.03.2009 before the respondent No. 2, seeking the change of Inquiring Authority. On 26.03.2009, the petitioner came to know that same have been rejected by the Disciplinary Authority. Petitioner also moved a recusal application dated 19.03.2009 before the Inquiring Authority requesting him to recuse himself from the inquiry. Vide order dated 01.05.2009 the said application has also been rejected. Aggrieved with the same, the present petition is filed.

4. In response to above petition, counter affidavit is filed on behalf of respondent No. 1 wherein by way of preliminary objection it is stated that the relief claimed by the petitioner is contrary to settled law. It is stated that petitioner wants to derail and delay the enquiry as he is apprehending that the facts emerging in the enquiry are detrimental to him. It is further stated that all the departmental witnesses have been examined and the enquiry is at the stage of examination of petitioner's witnesses and the relief sought by the petitioner ought to be denied at this belated stage. Further, the petitioner has made false allegations of bias against respondent No. 3/Inquiring Authority. It is further stated that petitioner has already made a representation to respondent No. 2 dated 27.02.2009 and a review petition dated 02.03.2009 for change of Inquiring Authority. The same has been duly considered and rejected by the Full Court of this court, which is the Disciplinary Authority, being devoid of merits vide resolution dated 26.03.2009. It is stated that respondent No. 3 has also rejected the application of petitioner seeking his recusal from the enquiry vide order dated 01.05.2009, which is as under:

This application has been made by the delinquent official seeking recusal of the Enquiry Officer from the enquiry being conducted against him. On similar grounds, the delinquent official had made a prayer to the Chief Justice for transfer of enquiry from present Enquiry Officer. All allegations as stated in the application were considered by the Hon'ble the Chief Justice and the request was declined. The various allegations made by the delinquent official in the application alleging bias etc. are absolutely false, I find no reason to entertain the application and to recuse myself from enquiry. The application is dismissed.

5. On merits the allegation of bias against the Inquiring Authority/respondent No. 3 are denied. It is denied that inquiry is being conducted in an illegal manner violating the principles of natural justice and fair play as alleged. The stand of the respondent is that the enquiry is being conducted in a legal manner following the principles of natural justice and fair play.

6. As regards the cross-examination of Ms. Anjali Bhardwaj (MW1), it is stated that the petitioner had cross-examined the said witness from 16.09.2008 to 18.09.2008. It was a very lengthy cross-examination. Full opportunity was given to petitioner by respondent No. 3 to cross-examine the said witness. At the time of cross-examination, petitioner did not make any attempt to put the two complaints made by Sh. S.K. Tyagi and Sh. S.K. Agnihotri to MW1 which as per the petitioner are pseudonymous complaints and the real author is MW1. The copies of aforesaid two complaints were already given to the petitioner by the establishment/respondent No. 1. The allegation that a full opportunity was not given to him to cross-examine MW1 or that he wanted to put the alleged pseudonymous complaints have been made for the first time on 13.01.2009. It is stated that the said application is an after-thought to fill up the loop holes. It is stated that on 17.09.2008, petitioner had moved an application stating that he wanted the statement of MW1 dated 19th and 21st December, 2002. It is stated that said request was rightly disallowed by Inquiring Authority as inspection of relevant file wherein these statements were recorded had already been allowed to petitioner by the earlier Inquiring Authority. It is further stated that as per petitioner he wanted the said statements only to show that the name of the father of the husband of MW 1 as stated in the present proceedings was at variance as compared to her earlier statements dated 19th December and 21st December, 2002 before the Registrar (Vigilance) of this court. It is alleged that in any event, no prejudice has been caused to petitioner as petitioner can point out at the time of arguments.

About the summoning of Sh. Ramesh Kumar and Sh. Chander Pal, it is stated that they were summoned for 29.09.2008. No objection was raised with regard to their summoning by the petitioner and both are the witnesses from the Bank. Sh. Ramesh Kumar is a Branch Head of J & K Bank, Faridabad, Haryana while Sh. Chander Pal is an officer of ICICI Bank. Both were effectively cross-examined by the petitioner. At a belated stage, the petitioner cannot allege bias. It is stated that petitioner is also not disputing the power of the Inquiring Authority to call for documents. That being the position, there is no illegality in summoning the documents as are referred in para VIII of the petition and the objective of summoning those documents was to establish the truth. Petitioner never took any such objection for summoning of these documents. Had he got any objection, he should have raised the same there and then. It is stated that in a similar way, Mr. Gyan and Ms. Bhago were summoned as their presence was necessary for establishing the truth and it does not amount to establishing bias of Inquiry Officer so as to prejudice the interest of the petitioner.

It is stated that the Inquiry Officer had put some questions to the witness Sh. Ram Prakash (MW-8) at the time of recording his evidence. The said witness was cross-examined by petitioner. No such objection was taken by the petitioner who is a Judicial Officer regarding putting questions to the witness by the Inquiring Authority at the relevant time. It is submitted that there is no bar that Inquiring Authority cannot put questions to the witnesses. There is no violation of the procedure as is alleged. By putting questions, it does not reflect any bias of the Inquiry Officer as is alleged.

7. As far as the allegations of holding the enquiry proceedings in the court room on 19.02.2009 are concerned, the stand of respondent is that on the said date, three witnesses were present and it was not possible to accommodate all in the Chamber of the Hon''ble Judge, as such, the inquiry proceedings were held in the court room. It is stated that two police officers were present as a part of police security provided to witness Smt. Rajwanti at her request pursuant to order passed by the Inquiring Authority on 17.02.2009. The said police officers left the court room on an objection being raised by petitioner. It is alleged that on the said date, petitioner had behaved rudely in the court room and had also left the court room by stating that the cross-examination of the witnesses will be conducted by his Advocate. Thereafter, the proceedings continued and the witnesses were examined by the Presenting Officer and cross-examined by the Advocate of the petitioner.

8. The allegations about interference by the grand-daughter of MW9 in the inquiry proceedings are denied. It is alleged that on the said date, petitioner was obstructing the proceedings by speaking in a loud voice. On being objected by respondent No. 3/Inquiring Authority, petitioner left the room and his lawyer conducted the cross-examination of witnesses without raising any objection. It is alleged that petitioner had left the proceedings of his own volition. An application dated 20.02.2009 was moved by the petitioner before the respondent No. 3/Inquiring Authority for recalling the witnesses MW9 to MW11. The same was rejected vide order dated 27.02.2009. Complete cross-examination was done by the lawyer of petitioner and the purpose of recalling was only to plug the loop holes. It is further stated that the representation dated 27.02.2009 and Review Petition dated 02.03.2009 filed before Appellate Authority have already been rejected by the respondent No. 2, i.e. Appellate Authority which has been communicated to the petitioner vide letter dated 26.03.2009. It is stated that none of the CCS/CCA Rules have been violated by the Inquiring Authority or the Appellate Authority as is alleged. It is stated that enquiry is being conducted in a fair manner and in accordance with the rules. No ground is made out to interfere in the matter and petition is liable to be rejected.

9. Rejoinder has been filed denying the allegations made in the counter affidavit against the petitioner and has reiterated the stand taken in the petition.

10. The contention raised by the learned senior counsel appearing for the petitioner is that alleged instances of biasness, unfair procedures and prejudice

as stated in the petition, i.e., by not allowing effective cross-examination of MW1, non-supply of earlier statements of MW-1, summoning witnesses/documents of its own by the Inquiring Authority and other alleged instances establishes that the inquiry is being conducted in an illegal manner without following the principles of natural justice, as such request is made in the petition for change of Inquiring Authority be allowed.

11. On the other hand, the stand of respondent No. 1 is that the establishment/respondent No. 1 has examined all its witnesses. The establishment closed its evidence on 19.02.2009. Petitioner has already examined 7 witnesses. In all, 38 hearings have taken place before the respondent No. 3. On 04.07.2008, Inquiring Authority/respondent No. 3 took the enquiry proceedings. Application for change of Inquiring Authority on the allegations as are alleged in the present petition have already been rejected on the administrative side by the Full Court which was communicated to petitioner vide letter dated 26.03.2009. On 19.03.2009, another application in this regard was filed before the respondent No. 3/Inquiring Authority which was rejected on 01.05.2009. On 03.07.2009, present petition is filed. It is stated that when the effort of petitioner to stall the inquiry proceedings failed, petitioner filed the present petition making false allegations against the Inquiring Authority. It is contended that the sole motive of the petitioner is to derail the enquiry proceedings. It is stated that none of the grounds stated in the petition have been made out. It is further contended that in any event, inquiry report is yet to be submitted and no action has been taken in the present matter by the Disciplinary Authority, as such present petition is premature.

12. We have considered the submissions made.

13. Memorandum dated 13.12.2006 enclosing Article of Charges was issued to the petitioner on 13.12.2006. As per the Article of Charges, there are serious allegations of misconduct against petitioner, during his functioning as a Judicial Officer. Reply has already been filed by the petitioner denying the charges levelled against him. It is an admitted position that Hon"ble Mr. Justice Vikramajit Sen was earlier appointed as Inquiring Authority. Thereafter, on recusal by the said Inquiring Authority, respondent No. 3 was appointed as an Inquiring Authority vide letter/order dated 4th July, 2008. It is also an admitted position that the evidence of the establishment has been closed on 19.02.2009. Thereafter, evidence of petitioner started and seven witnesses have been examined.

14. The main allegations of the petitioner against the Inquiring Authority/respondent No. 3 are that he has not allowed the petitioner to effectively cross-examine MW-1. The other allegations are that some of the witnesses/documents, the details of which are given in the preceding paras have been summoned by the Inquiring Authority of his own due to which petitioner has been prejudiced. His other allegations are that on 19th February, 2009, the inquiry proceedings were conducted in the court room and some police officials were also there which

is against the principles of law. The other allegation that his request for recalling MW 9 to 11 has been declined by the Inquiring Authority. His further allegations are that evidence/proceedings are not being correctly recorded due to which prejudice is being caused to him.

15. To rebut the allegations of petitioner, counter affidavit is filed by respondent No. 1 wherein it is stated that cross-examination of MW-1 was recorded on 16th to 17th February, 2009 and the allegation that petitioner is prevented from effective cross examination is being made after a lapse of three and a half months. There is no denial to the same by the petitioner. As regards the allegations that Inquiring Authority has summoned Ramesh Chand Pal, Mr. Gyan and Mrs. Bhago on his own, the stand of respondent No. 1 is that there is no bar that the Inquiring Authority cannot on his own summon the witnesses, if, the same are relevant witnesses and their presence is necessary to bring about truth. Further, no such objection of summoning documents/witnesses have been taken by the petitioner when the same were summoned. It has also come in the counter affidavit of the respondent No. 1 that petitioner has effectively cross examined all the aforesaid witnesses and no such objection was taken at that time. Even if some questions were put to the said witnesses as is alleged in the present petition, there is no bar in law that the Inquiring Authority cannot put questions to the witnesses. Further, it is not the stand of petitioner that aforesaid witnesses were not relevant witnesses. As regards non supply of statement of Anjali Bhardwaj recorded on 19 and 21st December, 2002, it is the admitted position that vide orders dated 6th November, 2007, the earlier Inquiring Authority had allowed inspection of the said file wherein said statements were recorded. As per the application dated 17th September, 2008 petitioner has stated that MW-1 has stated in the inquiry proceedings that she is wife of Shri Vinod Kumar Sharma son of Shri R.S. Sharma. In her earlier statement dated 19.12.2002 and 21.12.2002, she has stated before the Registrar (Vigilance) that she is the wife of Vinod Kumar Sharma son of Shri Dev Dutt Sharma as such said statements were required for contradicting the witness. We do not think that any prejudice is being caused to the petitioner as is alleged. Petitioner can point out the alleged contradiction at the time of arguments.

16. About holding of the inquiring proceedings in the court room, the stand of respondent No. 1 in its counter affidavit is that on that day three witnesses were present and it was not possible to accommodate them in the chamber of Inquiring Authority, as such inquiry proceedings were held in the court room. As regards the presence of police officials on that day is concerned, in the reply it is stated that one of the witnesses namely Rajwati who was present on that day was provided police security and pursuant to the orders of Inquiring Authority on 17th February, 2009, all the police officials were allowed to leave the court room when the same was objected and no public person was present in the court. In view of the above explanation, it cannot be said that any prejudice has been caused to the petitioner in having the proceedings in the court room. Further, it is not the stand of the petitioner that members of public were present in the

court room.

17. In view of above, we are of the view that prima facie allegations of bias/prejudice being caused to petitioner or that the principles of natural justice have not been followed, are not made out. As noted above, evidence of Establishment/respondent No. 1 is already over. Examination of petitioner's witnesses is being carried out. Petitioner is represented through a lawyer and the inquiry proceedings are in midstream. Merits/demerits of the inquiry cannot be gone into at this stage. The inquiry report is yet to be submitted. It is for the Disciplinary Authority which is the Full Court in this case to accept the findings given in the inquiry report or not. Disciplinary Authority has its own discretion in the matter. It may or may not accept or partly accept the inquiry report. The ultimate decision has to be taken by the Disciplinary Authority as has been held in Union of India (UOI) Vs. H.C. Goel, . It is also well settled that if the report is submitted against the delinquent and the Disciplinary Authority is tentatively in agreement with the Inquiring Authority, the delinquent has every right to make representation against the said report as has been held in the Managing Director, ECI v. K. Karunakaran AIR 1994 1074.

18. We agree with the contention of the learned Counsel for the respondent that present petition is premature at this stage. Reference in this regard is made to the following judgments of the Supreme Court as well as of this Court:

In Chanan Singh Vs. Registrar, Co-op. Societies, Punjab and Others, wherein writ petition was filed challenging the revival of disciplinary proceedings on the ground that same was illegal and opposed to natural justice. In the said case, Supreme Court held as under:

The writ petition was in any case premature. No punitive action has yet been taken. It is difficult to state, apart from speculation, what the outcome of the proceedings will be. In case the appellant is punished, it is certainly open to him to either to file an appeal as provided in the relevant rules or to take other action that he may be advised to resort to. It is not for us, at the moment, to consider whether a writ petition will lie or whether an industrial dispute should be raised or whether an appeal to the Competent Authority under the rules is the proper remedy, although these are issues which merit serious consideration.

Even the question of jurisdiction to re-open what is claimed to be a closed enquiry will, and must, be considered by the Managing Director.

Relying on the aforesaid judgment, a Division Bench of this court in Jagmal Singh Vs. Delhi Transport Corporation, , held as under:

The Courts are averse to the idea of intercepting legal and departmental proceedings way between and at interlocutory stages. This is for several reasons. An efficacious alternative remedy is available to the petitioner by taking all the pleas during the proceedings themselves and there is no reason to apprehend why the authorities vested by law with the jurisdiction to conduct the

proceedings and take decisions therein would not act in accordance with law. Interference by the Courts stalls the progress of the proceedings and by the time the petition comes to be decided, may be against the petitioner, the proceedings would have been unreasonably and irreparably delayed. May be that much of the evidence is already lost by the time the hearing in the proceedings would come to be resumed. Several officers associated with the case may have left the place on account of transfers or promotions or may not even be available as having retired. It is only in those rare cases where the impugned proceedings are patently incompetent or without jurisdiction and where the Court is convinced that continuance of such proceedings would amount to an illegality or an abuse of the process of law by itself, that the Court may show indulgence in exercise of its writ jurisdiction at interlocutory stage of departmental proceedings.

The observations in *Inder Raj Singh v. Delhi Transport Corporation and Anr.* CW 3346/1992, decided on 15.1.1993 are also relevant and the same are in the following terms:

When departmental proceedings have been initiated, it is desirable that they should be allowed to be continued and the proceedings must culminate in an order before recourse is taken to a Court of law. It is open to an officer who is being proceeded with to raise all contentions not been initiated validly and any contention raised by the employee concerned will have to be considered and decided by the Enquiry Officer and/or by the Disciplinary Authority in any case. The grievance of the petitioner can only be if and when an adverse order imposing a penalty is passed against him. It is not proper that department proceedings should be interfered with prior to an order being passed by the Disciplinary Authority.

For the foregoing reasons, we hold that present petition is premature and is an attempt to delay the inquiry proceedings. In any view of the matter, it is not a fit case for interference under Article 226 of the Constitution of India.

The petition stands dismissed. Nothing stated herein shall have any bearing in the proceedings going on before Inquiring Authority.