

(2011) 09 DEL CK 0417

In the Delhi High Court

Case No : Writ Petition (C) 2044 of 1992 and CM No. 5707 of 2010

K.S. Jawatkar

APPELLANT

Vs

Jawaharlal Nehru University and Others

RESPONDENT

Date of Decision : 16-09-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 2 Rule 2
Constitution of India, 1950 — Article 14, 19, 21

Citation : (2011) 09 DEL CK 0417

Hon'ble Judges : Dr. S. Muralidhar, J

Bench : Single Bench

Advocate : Party in Person, for the Appellant; S.C. Dhanda, for JNU, for the Respondent

Final Decision : Dismissed

Judgement

S. Muralidhar, J.

Introduction

1. These are two writ petitions by Dr. K.S. Jawatkar who retired as Associate Professor in the School of International Studies ("SIS") of Jawaharlal Nehru University ("JNU"). In W.P. (C) 2044 of 1992, the prayer is that the JNU should release to the Petitioner his revised salary and other allowances including arrears with interest accrued thereon in the post of Assistant Professor with effect from 1st January 1986, to promote the Petitioner with effect from 1st January 1983, give the benefits of the "Merit Promotion Scheme" ("MPS") and quash the list of faculty members of the JNU as on 1st October 1989 published in a document "Jawaharlal Nehru University: 20th Anniversary".

2. The prayer in the second W.P. (C) 911 of 2007 is for a direction to the JNU to grant the Petitioner promotion as Professor with effect from 1st January 1992, alternatively as the Professor Appadorai Chair in International Relations with effect from 1995. the Petitioner further seeks a declaration that he should be

deemed to have continued in service up to the age of 65 years in terms of Clause 6 of the Academic Ordinances applicable to JNU made under the Jawaharlal Nehru University Act, 1966 ("JNU Act") as well as a resolution dated 19th April 1976 of the JNU. the Petitioner also seeks a direction to the JNU to pay him the entire arrears of salaries up to 31st August 2003 and other statutory dues, including pension with effect from 1st September 2003 as well as consequential benefits. Facts leading up to the Supreme Court judgment

3. The facts narrated hereafter have been sourced largely from the Supreme Court judgment dated 12th May 1989 in Jawaharlal Nehru University Vs. Dr. K.S. Jawatkar and Others, (hereafter "the Supreme Court judgment"). On 27th January 1971, the JNU informed the Petitioner that he had been selected for the post of Research Assistant in the Department of South Eastern Studies, SIS of the JNU. On 29th November 1973, the Petitioner was offered the post of Associate Fellow in the Post-graduate Studies Centre ("PGSC") of the JNU at Imphal, Manipur for a period of one year. On 3rd December 1973 the Petitioner reiterated his acceptance of the offer of appointment as Associate Fellow at Imphal. By an order dated 24th August 1974 the Petitioner's appointment as Associate Fellow at Imphal was extended for a period of one year up to 2nd December 1975. By an Office Order dated 23rd September 1974 the Petitioner's term of appointment was extended in the same capacity up till 2nd December 1976.

4. On 23rd December 1977, an advertisement was issued by the PGSC at Imphal for appointment, inter alia, to the posts of Associate Professor/Fellow and Assistant Professor/ Assistant Fellow in Political Science division. the Petitioner applied for the post of Associate Professor but the Selection Committee did not find him suitable for that post and recommended him for the lower post of Assistant Professor. By letter dated 29th April 1978 the JNU offered him the appointment of Assistant Professor in Political Science division on an ad hoc basis at the PGSC at Imphal for a period of one year or till his services were required by the PGSC, whichever was earlier. By a letter dated 21st March 1979, the JNU offered him the post of Assistant Professor at Imphal for a period of two years. He joined as Assistant Professor on 29th August 1979 and, thereafter, was appointed as such by a Resolution of the JNU on 29th October 1979, on a regular basis, with effect from the date of initial appointment dated 29th August 1979.

5. Thereafter, pursuant to a Resolution passed on 3rd February 1981, JNU accepted the proposal of the Manipur University and authorised the Vice Chancellor ("VC") of JNU to transfer the PGSC to Manipur University. By an order dated 31st March 1981 passed by the Governor of Manipur, it was directed that the members of the faculty of the PGSC would on and from 1st April 1981 become members of the teaching staff of the Manipur University on the same terms and conditions of service as they were entitled to immediately before that date.

The Supreme Court Judgment

6. the Petitioner filed a writ petition on 27th March 1981 in the Supreme Court challenging the aforementioned transfer. The writ petition was dismissed by the Supreme Court as withdrawn on 21st September 1981. Thereafter, the Petitioner filed a writ petition on 22nd May 1982 in this Court, seeking the quashing of the said Resolution dated 3rd February 1981 of the JNU transferring his services from JNU to Manipur University. The said writ petition was allowed by a learned Single Judge of this Court holding that the Petitioner had been confirmed as Assistant Professor in JNU and was entitled to continue in JNU. The appeal preferred by the JNU was dismissed by a Division Bench of this Court. It was observed that if as a result of the Petitioner being declared as continuing in service in JNU, he was rendered surplus, then the principle of "last come first go" had to be applied. Further, the principle had to be effected with reference to the cadre to which the Petitioner belonged and to the discipline in which he was competent. In the event of it being found that he constituted a class by himself, his services could be absorbed in some suitable post in the JNU. Against the judgment of the Division Bench, JNU appealed to the Supreme Court. By its final judgment dated 12th May 1989 the Supreme Court affirmed the decisions of this Court that the transfer of the PGSC from the JNU to the Manipur University "could not result in a transfer of the employment" of the Petitioner and that he continued in the employment of the JNU. By the time the case was heard before the Supreme Court, the Petitioner had been adjusted against a suitable post in the JNU and he had been working there without break during the pendency of the appeal. Consequently, the Supreme Court observed that "we cannot, therefore, permit the Appellant University to retrench him". JNU's appeal was dismissed with costs. The subsequent review petition by the JNU was also rejected by the Supreme Court by an order dated 10th October 1990.

7. During the pendency of JNU's appeal, an interim order was passed by the Supreme Court on 27th July 1984 directing that the benefits of emoluments as well as seniority and promotions to which the Petitioner would be entitled would be decided at the stage of final hearing of the appeal. JNU published a seniority list (school-wise) of the JNU teachers appointed as on 31st March 1981. This was taken note of by the Supreme Court in its final judgment dated 12th May 1989. It observed that "it makes no difference that the Respondent was not shown in the list of Assistant Professors of the Appellant University or that the provision was not indicated in its budget; that must be regarded as proceeding from an erroneous conception of the status of the Respondent."

Background to W.P. (C) No. 2044 of 1992

8. The background to W.P. (C) No. 2044 of 1992 filed by the Petitioner in this Court on 25th May 1992 is that in 1982, the University Grants Commission ("UGC") evolved a MPS for University appointed teachers with a view to providing an incentive to teachers to prevent stagnation and also to improve their efficiency. Under the MPS guidelines, only those University teachers who had completed eight years of continuous service in their respective cadres, including

at least four years in the institution, would be eligible for being considered for merit promotion. the Petitioner sent his application dated 5th September 1983 for grant of promotion under the MPS but was not given the merit promotion at that stage. the Petitioner is aggrieved by the fact that one Mr. Sushil Kumar, who was junior to the Petitioner and did not possess a Ph.D, was promoted under the MPS with effect from 1st January 1983. the Petitioner states that after the Supreme Court judgment he wrote to the JNU seeking grant of promotion under the MPS with effect from 1st January 1983 and the pay-scales as revised from time to time. the Petitioner states that his application dated 2nd March 1987 addressed to the Registrar of the JNU was forwarded through Professor M.L. Sondhi, Chairman/Head of SIS. According to him, Mr. Sondhi opined: "Dr. Jawatkar"s application meets the basic objects of the Merit Promotion Scheme". On 23rd April 1991, the Selection Committees meeting was fixed to evaluate the suitability of the Petitioner for the post of Associate Professor in International Politics under the MPS. According to the Petitioner, the two experts included in the Selection Committee were not specialists in "International Politics" and therefore did not possess "special knowledge or interest" in the concerned discipline. The Selection Committee did not find him suitable for promotion to the post of Associate Professor under the MPS.

9. the Petitioner states that despite the revised pay-scales on the basis of the recommendations of the Third Pay Commission ("TPC") being made part of the Academic Ordinances relating to the Scheme of Revision of Pay Scales (1986), along with Emoluments, Qualifications and Career Advancement of Teachers, he was denied the revised pay scale with effect from 1st January 1986. His other grievance is that in a document "Jawaharlal Nehru University: 20th Anniversary", his name was omitted from the list of faculty members of the JNU as on 1st October 1989. He had, therefore, suffered indignity and humiliation. He states that despite his representation, the Respondent failed to release his correct salary. He then filed a Contempt Petition No. 335 of 1991 (in CA No. 2948 of 1984) before the Supreme Court which was disposed of on 5th December 1991 stating that in case the Petitioner had any grievance about the pay-scale or promotion, he could prefer a separate petition. the Petitioner states in the present petition that the actions of the JNU are arbitrary, illegal and malafide and that JNU has violated the Petitioner"s fundamental rights under Articles 14, 19(1) (a) and (g), and 21 of the Constitution of India.

10. On 14th July 1992, the JNU filed a reply to the writ petition. It explained that in terms of the Supreme Court judgment, the Petitioner had been made a member of the Academic Council and the Court of the University on the basis of his seniority. His name had also been included in the seniority list of faculty and the annual report. The order dated 27th July 1984 of the Supreme Court had directed that the Petitioner be paid emoluments in terms of the judgment of the High Court by creating an ex cadre post of Assistant Professor in the discipline to which the Petitioner belonged and he would be permitted to work on that post till the disposal of the appeal. This was without prejudice to the rights and

contentions of the parties in the appeal "including the benefits of emoluments as well as seniority and promotions" to which the Petitioner may be found entitled to at the final hearing of the appeal. It is stated that after the Supreme Court judgment the Petitioner was given the benefit of his past service. As regards the scheme for grant of revised pay scale, it was pointed out that the Petitioner was to give his option of either continuing to be governed by the provisions of the MPS or being governed by the Career Advancement Scheme ("CAS") of the JNU. the Petitioner had not submitted his option till date and consequently the revised pay scale could not be fixed. As soon as the Petitioner gave his option, his pay would be fixed and the arrears of salary due to him on account of such revision would also be paid to him thereafter. As regards the MPS, it is stated that the Selection Committee did not find the Petitioner suitable for grant of promotion. It is maintained that both the experts had adequate expertise in international relations including international politics and therefore the Selection Committee was properly constituted.

11. On 15th July 1992, Rule was issued in the writ petition. The Court also directed that "the Petitioner should be paid salary at the revised scale of pay and the payment will be without prejudice to the contentions in the writ petition. This payment should be made under the Career Advancement Scheme and the arrears of pay should be paid within two weeks from today. The question of payment of interest will be decided at the time of decision of the writ petition."

12. Thereafter the Petitioner filed CM Application No. 6688 of 1993 praying inter alia for an early hearing of the writ petition. In this application, it is pointed out that being the senior-most faculty member, he was due for his turn as Chairperson/Head of the Centre for international Politics, Organisation and Disarmament ("CIPOD") when Professor M.L. Sondhi, lays down his office of Chairperson/Head of the Centre on his superannuation. It was pointed out in this application that since Mr. Sushil Kumar, who was junior to the Petitioner, had already been granted promotion under the MPS, he would supersede the Petitioner if the matter was not heard immediately.

13. In reply to the said application, Prof. Sondhi filed an affidavit stating that the Petitioner was entitled to promotion with effect from 1st January 1983 under the MPS in terms of the judgment of the Supreme Court dated 12th May 1989 and that the earlier Selection Committee which had met on 23rd April 1981 was in breach of the statute and the UGC Guidelines. He referred to the recommendation of the Gajendragadkar Committee on Governance of Universities and Colleges which specifically stated that apart from the Head of the Department, "It would be advisable for the Vice-Chancellor to invariably associate the Professor In-charge of a particular field of specialisation with the Selection Committee recommending appointment in that field." Prof. Sondhi further stated that on his attaining the age of superannuation on 13th December 1993 the next senior most faculty member of the Centre should be appointed as Chairperson/Head of the Centre with effect from 14th December 1993. Prof.

Sondhi enclosed a copy of letter dated 7th May 1993 addressed to the VC, JNU, stating that the stand of the Petitioner was reasonable. By a letter dated 15th March 1993 the Petitioner informed the VC that he was never an applicant for promotion/placement under the CAS. He had consistently maintained that he should be considered for promotion under the MPS for which he applied on 9th September 1983 and 2nd March 1987.

14. After CM No. 6688 of 1993 was dismissed by this Court, the Petitioner filed another application, CM No. 8626 of 1993, praying that he should be appointed as Chairperson/Head of the Centre (CIPOD). Prof. Sondhi filed a reply-affidavit to this application supporting the stand of the Petitioner. He also enclosed an order dated 28th November 1993 addressed to the Vice Chancellor, JNU. The stand of the JNU in reply to this application was that the Petitioner could not be considered senior to Mr. Sushil Kumar and the Selection Committee which met on 23rd April 1991 did not find him suitable for the grant of promotion under the MPS. As regards the Chairperson/Head of the Centre (CIPOD), it was stated that it was not a post carrying any distinction or special emoluments and the Dean was not appointed on the basis of the seniority. Further, the appointment as Chairperson was on rotational basis.

15. On 13th December 1993, this Court disposed of CM Application No. 8626 of 1993 by observing that no action had been taken on the appointment of Chairperson/Head of CIPOD and till such action was taken, it would be premature to consider the application. It was further observed that if the Petitioner was aggrieved by such appointment which might be made, it would be open to him, if so advised, to file an appropriate application. Background to W.P. (C) No. 911 of 2007

16. As earlier noticed, the Petitioner's main prayer in W.P. (C) No. 911 of 2007 is that he should be promoted as Professor with effect from 1st January 1992 and for a declaration that he should be deemed to have continued in service up to the age of 65 years. It is significant that the writ petition was filed in 2007 seven years after the Petitioner retired on 31st August 2000. the Petitioner's claim that he should have been deemed to have continued in service till he was 65 is based on Clause 6 of the unamended Academic Ordinance which reads as follows:

Every teacher confirmed in the service of the University shall continue in such service; no further contract or extension shall be granted to a teacher who has attained the age of 65 years

17. The amended Clause 6.1, with effect from October 1993 stated that "subject to the provision of Statute 30, every teacher in the service of the University shall retire from service on the afternoon of the last date of month in which he/she attains the age of 60 years". the Petitioner contends that the above amendment does not apply to him as he was appointed prior thereto. He relies upon Clause 7 of the pre-amended Academic Ordinance which provides that "no change in the terms and conditions of service of a teacher shall be made after his/her

appointment in regard to designation, scale of pay, increment, provident fund, retirement benefits, age of retirement, probation, confirmation, leave, leave salary and removal from service so as to adversely affect him."

18. In regard to his claim to the Professor Appadorai Chair, the Petitioner contends that despite several representations made by him about fresh selections having to be held for appointment to the said post, no response was received from the JNU. Instead, the earlier order dated 22nd May 1998 granting the Petitioner extension for a period of three years was modified and by order dated 15th June 2000 the JNU stated that the Petitioner would retire upon attaining the age of 62 years in terms of the amended Academic Ordinances. The Selection Committee did not find the Petitioner suitable for such appointment.

Other writ petitions by the Petitioner

19. the Petitioner filed W.P. (C) No. 3502 of 1995 challenging the appointment of Dr. S.D. Muni as the Professor Appadorai Chair. This petition was disposed of by this Court on 11th November 1997 after noticing that the period of appointment of the incumbent had come to an end and therefore the questions raised by the Petitioner were academic. Thereafter when Dr. Muni vacated the Professor Appadorai Chair, the Petitioner filed W.P. (C) No. 6107 of 2000. In this petition an order dated 28th May 2002 was passed by this Court noting that the Petitioner had superannuated on 31st August 2000 after attaining the age of 62 years. the Petitioner contended that he ought to have been re-employed for another three years. There was a dispute whether the Petitioner's representations dated 11th February 2000 and 18th April 2000 were received by the JNU. This Court nevertheless directed the VC, JNU to dispose them of within four weeks. A Committee constituted by the VC for that purpose met on 19th September 2002. The Committee did not recommend the case of the Petitioner.

20. In its judgment dated 20th November 2003 disposing of W.P. (C) No. 6107 of 2000 this Court considered whether "the Petitioner has a vested and enforceable right to be re-employed till his attaining the age of 65 years." Since by that time the Petitioner had completed 65 years, his claim to the Professor Appadorai Chair was held by this Court to have diminished in significance. The Court noted that originally the Petitioner was to retire on 31st August 1998 but the VC by an order dated 22nd May 1998 granted him re-employment for a period of three years with effect from 1st September 1998. However, by a Circular dated 23rd October 1998, the JNU enhanced the age of superannuation to 62 years. Thereafter, on 15th June 2000, the JNU sought to modify the order dated 22nd May 1998 and informed the Petitioner that in terms of the Circular dated 23rd October 1998, he should not be treated as re-employed; he would retire on attaining the age of 62 years. The contention of JNU was that the Petitioner could have either accepted the enhanced age of superannuation (first alternative) or continued to work as a re-employed teacher. Since the Petitioner had done neither he was deemed to have chosen the first alternative and therefore, retired from service on 31st August 2000 on attaining the age of 62 years. This Court negatived that

contention. It found that the Petitioner had not expressly agreed to be regulated by the Circular dated 23rd December 1998. Therefore, he was continued in service for a period of three years up to 31st August 2001 and would be entitled to consequential benefits. As regards the further extension up to 65 years, this Court found that he had no right to be re-employed and that this Court could not review the decision of the VC based as it was on the recommendation of the Committee constituted for that purpose. This Court also negated the claim of the Petitioner for being considered for appointment to the Appadorai Chair. Consequently, the only relief granted by the learned Single Judge was that the Petitioner would be deemed to have continued in service, on re-employment, till 30th August 2001.

21. Aggrieved by the said judgment dated 20th November 2003, the Petitioner filed Writ Appeal No. 68 of 2004. The relevant portion of the order dated 21st January 2004 passed by the Division Bench dismissing the said appeal, reads as under:

Arguing in person, he again invoked the University Order dated 22nd May 1998 to claim that he was entitled to re-employment for three years and remain in service up to the age of 65 years. No other issue was taken by him. Apart from the reasoning given by the writ Court, we find that Appellants claims suffers from serious misconception. He overlooks that he was initially to retire in August, 1998 on attaining 60 years of age and it was in that context, that he was offered reemployment for three years from 1st September 1998. and since meanwhile retirement age was raised on which basis he remained in service till he attained 62 years of age on 30th August 2000, the question of giving effect to a previous University Order dated 22nd May 1998 which was passed in the light of his retirement due on attaining 60 years of age, therefore, did not arise. On the other issue of appointment to the A. Appadorai Chair, we find ourselves unable to disagree with the reasoning of the learned Single Judge. Appeal is accordingly dismissed.

22. the Petitioner then filed SLP (Civil) No. 4427 of 2004 in the Supreme Court which was dismissed in limine on 16th November 2004.

Scope of W.P. (C) No. 911 of 2007 confined to prayer (a)

23. Reverting to the present writ petition, W.P. (C) No. 911 of 2007, on 19th November 2008 a detailed order was passed by this Court rejecting prayers "b", "c" and "d" as being not maintainable in light of the earlier orders passed by this Court. Consequently, it was held that W.P. (C) No. 911 of 2007 would be restricted only to prayer "a", i.e., for a direction to the JNU to grant the Petitioner statutory promotion as Professor with effect from 1st January 1992 and/or alternatively Appadorai Chair in International Relations with effect from 1995.

24. Aggrieved by the aforementioned order, the Petitioner filed LPA No. 1 of 2009 which was dismissed by the Division Bench of this Court on 6th January 2009. Aggrieved by the said order dated 19th November 2008 of the learned Single

Judge of this Court, the Petitioner filed SLP No. 10313 of 2009 in which the following order was passed"

Delay condoned. Having heard the Petitioner-in-person, we are not inclined to entertain the SLP since the question sought to be agitated herein appears to have been gone into in earlier proceedings. The basic relief sought for by the Petitioner is that he ought to have been retired at the age of 65 years and not at the age of 60 years, as has been done in this case. The said question, in our view, is no longer res integra on account of the fact that the same was decided by the Division Bench of the High Court in Writ Appeal No. 68 of 2004 and the SLP filed against the said decision was also dismissed. However, we are informed by the Petitioner that there is some matter pending before the High Court. If that be so, the same may be pursued and be disposed of at an early date. The SLP is dismissed.

25. Consequently, as regards W.P. (C) No. 911 of 2007, the only prayer which remains to be considered is prayer "a" which has also been adverted to hereinbefore.

26. This Court has heard the submission of the Petitioner, who appears in person and Mr. S.C. Dhanda, learned Counsel appearing for the Respondents. the Petitioner has also filed written submissions. Prayers in

W.P. (C) No. 2044 of 1992

27. The first point urged by the Petitioner was that he was wrongly denied promotion under the MPS whereas Mr. Sushil Kumar, who was junior to him, was granted promotion as Associate Professor with effect from 1st January 1983. In particular, he reiterated the submission that two of the members of the Selection Committee which met on 23rd April 1991, i.e., Professor A.P. Rana and Mr. Basheer Ahmad, were not experts in the discipline of International Politics. the Petitioner pointed out that when the JNU again constituted a Committee which met on 15th March 1993, the Petitioner's case for promotion as Associate Professor was accepted and he was promoted with effect from 3rd August 1989. But this order was superseded by another Office Order dated 24th August 1993 granting promotion to him with effect from 1st January 1984. The grievance on this score is thus narrowed down to the claim of the Petitioner that he should have been granted promotion as Associate Professor with effect from 1st January 1983.

28. In the additional affidavit filed by the JNU on 12th April 2010, a reference was made to the recommendations of the Selection Committee which met on 23rd April 1991. Three of seven members of the Selection Committee were not from the JNU. One of them could not attend the meeting. This Committee did not find the Petitioner suitable for promotion. The Committee which met on 15th March 1993 considered his case and found him suitable. In the additional affidavit filed on behalf of the JNU a reference was made to Clause 6 of the MPS which states that "any teacher who has been considered and not selected for

merit promotion in the initial presentation could, however, submit his work again only after a lapse of two years." the Petitioner's case was considered at the subsequent meeting of the Committee held on 15th March 1993, i.e., within two years thereafter. By an Office Order dated 24th August 1993 the Petitioner was granted promotion as Associate Professor with effect from 1st January 1984.

29. This Court is unable to find any infraction of procedure followed by the Selection Committee. The two experts who were part of the Selection Committee which met on 23rd April 1991 were experts in international relations. Merely because they may not have had expertise in "international politics" does not invalidate the decision of that Committee. There was nothing personal that any of the members of that Committee had against the Petitioner. Further, the Petitioner ultimately got his promotion from 1st January 1984, a year later than when he claims he should have been promoted. There is no merit in the prayer "b" of W.P. (C) No. 2044 of 1992.

30. The prayer in W.P. (C) No. 2044 of 1992 concerning the grant of revised pay scale, salary and allowances, including arrears with effect from 1st January 1986, was already ordered by this Court on 15th July 1992 while issuing Rule. The only issue remaining to be decided is about interest on the said amounts. It is directed that on the amount of arrears of wages payable or paid to the Petitioner in terms of the aforementioned order, simple interest @ 9% per annum will be paid by JNU to him for the period from 1st January 1986 to the date of payment of arrears. Prayers "a" and "c" of W.P. (C) No. 2044 of 1992 are accordingly disposed of.

31. As regards the Petitioner's name not figuring in the list of faculty members, it has been pointed by Mr. Dhanda that on account of the pendency of the case before the Supreme Court the said list did not contain name of the Petitioner. However, the position has since been rectified. This Court therefore does not consider it necessary to issue any directions in this behalf. Prayer (a) in

W.P. (C) No. 911 of 2007

32. Prayer (a) in W.P. (C) No. 911 of 2007 concerns the Petitioner's claim to be appointed to the Professor Appadorai Chair in International Relations. After the order dated 20th November 2003 of this Court in W.P. (C) No. 6107 of 2000, which was affirmed by the Division Bench by its order dated 21st January 2004 dismissing the Petitioner's Writ Appeal No. 68 of 2004, the issue already stands answered against the Petitioner. Both orders were affirmed by the Supreme Court when it dismissed the Petitioner's S.L.P (C) No. 4427 of 2004 on 16th November 2004. the Petitioner cannot be permitted to reagitate the same issue all over again.

33. As regards the claim to the appointment as Professor, the JNU by its additional affidavit filed on 12th April 2010, placed on record the minutes of the Meeting of the Selection Committee dated 30th August 1996 which recommend that the Petitioner should be considered for such promotion after two years. It is

stated that the Petitioner did not submit his work for reassessment thereafter till his retirement. Therefore, he could not be considered for promotion. the Petitioner retired on 31st August 2000 without such promotion being granted. This was the position when the Petitioner filed W.P. (C) No. 6107 of 2000. However he did not at that time raise the issue of non-grant of promotion as Professor. His entire focus, at that stage, was on the Professor Appadorai Chair. There is no explanation why the Petitioner chose to wait for seven years thereafter to file the present writ petition claiming merit promotion to the post of Professor.

34. the Petitioner urged that his claim for promotion as Professor with effect from 1st January 1992 was not barred by res judicata or under Order II Rule 2, Code of Civil Procedure. He relied upon the decisions of the Supreme Court in State of Maharashtra and another Vs. M/s. National Construction Company, Bombay and another, and Deva Ram and Another Vs. Ishwar Chand and Another, According to him, even the earlier litigation would not constitute as res judicata. He stated that W.P. (C) No. 6107 of 2000 was based on the 1993 amendment to Clause 6 of the Academic Ordinances which was not applicable to him by virtue of Clause 7 thereof. He relied upon the decisions of the Supreme Court in Josep Pothan Vs. State of Kerala, and Municipal Committee, Amritsar and Others Vs. State of Punjab and Others,

35. After the order dated 19th November 2008 of this Court limiting the scope of W.P. (C) No. 911 of 2007 to prayer (a), the Petitioner cannot be heard to urge the issue concerning Clause 6 of the Academic Ordinances. This Court therefore cannot entertain the claim of the Petitioner that he should be declared to have continued up to the age of 65 years. Both issues have already been answered against the Petitioner by this Court earlier. Even assuming that such plea is not barred by res judicata it is barred by laches. Consequently, this Court finds no merit in prayer "a" of W.P. (C) No. 911 of 2007 and it is rejected as such.

Conclusion

36. Consequently, W.P. (C) No. 2044 of 1992 is disposed of with the direction that JNU will, within a period of eight weeks, pay the Petitioner simple interest @ 9% per annum on the arrears of the revised pay scale in terms of the order dated 15th July 1992 passed by this Court, from 1st January 1986 to the date of payment. Any delay in making such payment of interest will entail the JNU having to pay penal simple interest at 12% per annum for the period of delay. W.P. (C) No. 911 of 2007 is dismissed.