

(2010) 05 MP CK 0050

In the Madhya Pradesh High Court

Case No : Writ Petition No. 8851 of 2009 (S)

Pramod Kumar Gupta

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 05-05-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) ILR (MP) 2074 : (2011) 1 MPJR 82 : (2011) 1 MPLJ 666

Hon'ble Judges : J.K. Maheshwari, J

Bench : Single Bench

Judgement

J.K. Maheshwari, J.

This petition has been filed under Article 226 of the Constitution of India seeking following reliefs:

(i) That the Charge-Sheet dated 18-7-2005 (Annexure P-6) may be ordered to be quashed and further departmental enquiry proceedings pending against the Petitioner may also be directed to be struck down.

(ii) The order of refusal of grant of Senior Selection Scale dated 15-6-2009 (Annexure P/19) may be ordered to be quashed.

(iii) The Respondent No. 1 be directed to reconsider the case of the Petitioner for grant of Senior Selection Scale and to allow such benefits at par to the other incumbent or similarly situated officers by opening the sealed cover envelope.

(iv) The Respondent be also directed not to take any action causing prejudice to the Petitioner in the matter of grant of IAS cadre at par to other similarly situated officers.

The brief facts of case are that Petitioner was selected by M.P.P.S.C. on the post of Dy. Collector as per order dated 13-1-1986, which is properly known as State Administrative Service (in Short hereinafter referred to as the SAS). On completion of 6 years of service benefit of senior scale i.e. Rs. 10,000-14,000/-

designating him as Joint Collector w.e.f. 1-1-93 has been allowed. On having blameless career selection scale i.e. of 12,000-16,000/- has further been allowed designating him as Additional Collector w.e.f. 1-1-1999 vide order dated 14-12-1999. At present he is posted as Chief Executive Officer, Indore Development Authority, Indore on deputation and discharging his duties on the said post.

In the year 1995, when he was posted on deputation as Commissioner Municipal Corporation, Ujjain in Urban Administration and Development Department a complaint was made against one Radheshyam and other persons including Petitioner. In the said complaint, it was said that Vikram Vatika, Ujjain, which was in the ownership of the Vikram University has been illegally delivered on license to one Narendra Bhadoriya by them. On the said complaint a case was registered by the Lokayukt Police and started investigation thereupon. As per intimation of the Dy. Secretary, Urban Administration and Development Department (Borrowing Department) dated 1-10-2003 addressing to the Principal Secretary, GAD (parent department), it was jointly decided that the departmental action, if any, against the Petitioner to the said irregularities can only be taken after the enquiry by the Lokayukt Establishment, if he found guilty. The Lokayukt Sangathan vide its letter dated 3-1-2006 Annexure-P/12 intimated to GAD in reply to their letter dated 18-12-2005 that no evidence was found against the Petitioner, however the Challan in Court has not been filed against him, but filed against Radheshyam Bhadoriya and Shrilal Mohd. Khan and Ors. on 15-9-2004. It is stated initially that GAD has decided to not to initiate departmental enquiry, till report of Lokayukt, but without awaiting such report, charge-sheet has been issued on 18-7-2005 Annexure-P/6, alleging that Vikram Vatika was not the land of Municipal Corporation, Ujjain, however the license/lease may not be granted by the Corporation, by passing the resolution in Mayor-in-Council dated 30-5-1995, and Petitioner being Commissioner has not raised any objection to it. It is also stated that such lease/license is contrary to spirit of Section 80 of Municipal Corporation Act and under Madhya Pradesh Nagar Palik Nigam (Achal Sampatti Ka Antaran) Rule, 1994. The said act amount to misconduct.

At the time of issuance of charge-sheet Petitioner was posted as Joint Director, Madhya Pradesh Rajya Krishi Vipnan Board, Bhopal, however, it was received by him as per Annexure P-6. On receiving the charge-sheet application to supply and to inspect the documents as specified in the list of documents, was submitted as per Annexure P-7/A & P-7/B. Vide letter dated 8-11-2005 (Annexure P-8) he was called on 11-11-2005, but such letter was received on 14-11-2005 in his office, on which date he was on leave, however, submitted application on 25-11-2005 (Annexure-P-10) to give another date. Thereon GAD called him to remain present on 4-1-2006; during inspection, original documents were not found in record, except the photocopies while documents Nos. 1 to 14 were not allowed to inspect. By submitting application aforesaid issues were raised, but it was not replied. After about 3 1/2 years, again a letter was issued

on 8-6-2009 for inspection of the documents, as per Annexure P-15, stating that the certified copies of the documents have been received by GAD from Urban Administration Department, however, Petitioner may inspect those documents. On inspection of those documents Petitioner has put up a note on the note sheet that the original documents are not available, which formed the basis to initiate action against him, however, departmental enquiry may be stayed till showing of the original. In the meantime Petitioner has received a letter dated 14-7-2009, stating that reply may be filed within a week, otherwise ex parte may be proceeded. Petitioner had submitted the reply with preliminary submission, that the original documents have not been shown, photocopies have also not been supplied; but on the basis of inspection and memory reply is being filed, which is Annexure P-21. After Lokayukt report the Urban Administration Department was not willing to initiate any action, but the GAD wasn't to continue the enquiry. It is the contention of Petitioner that continuation of departmental enquiry after more than 15 years by GAD is unreasonable and arbitrary. It is stated that as per GAD circulars Annexure P-22 and P-23 the enquiry ought to have closed within 13 to 14 months from the date of initiation, but in the present case no plausible explanation to issue charge-sheet after 10 years for the cause of 1995 has been given. It is also contended that even on demand documents were not supplied upto three and half years. Thus without showing original documents and allowing him to inspect the original record, only on the basis of certified copy the departmental enquiry has been started, and in the month of November, 2009, appointing Enquiry Officer, never acted unreasonably.

It has specifically averred that the action to initiate the enquiry is arbitrary, unreasonable and biased because the Petitioner was transferred from Indore to Alirajpur vide order dated 19-10-2008 during the election period. The said action was challenged by him in Writ Petition No. 6652/12008, wherein interim order was passed and finally it was decided in favour of Petitioner as per order dated 5-12-2008. On having prejudiced the GAD has retaken enquiry, and during the said period grant of senior selection scale was denied, though incumbent juniors granted such benefit. The representation filed by him was also rejected vide order dated 15-6-2009 (Annexure P-19). It is contended that the selection scale was granted to him in the year 1999 while initiation of enquiry was of the year 1995, however, at the time of granting selection scale, the said departmental enquiry was pending, thus misconduct, if any, be treated as waived of it is also said that if the benefit of selection scale has been allowed during pendency of enquiry, then at the time of grant of senior selection scale refusal on the said pretext is arbitrary and mala fide. It is also contended that the SAS officers up to the Batch of 1985 have already been awarded the IAS Cadre, and in near future he is in zone of consideration to award IAS Cadre. Thus, to cause serious prejudice to him after 15 years protracted enquiry may liable to be quashed, and the Respondents may be directed to extend the benefit of senior selection scale from due date and to consider his case for promotion for IAS Cadre on its turn.

The Respondents have filed their reply stating that when the Petitioner was

posted as Commissioner, Municipal Corporation, Ujjain in 1995, he had delivered the "Vikram Vatika" on license/lease to the private person against the provisions of the Act, and Rules. It is said that the show cause notice dated 18-8-1996 was served and after receiving the reply dated 15-10-1996, recommendation to initiate the enquiry was made by the Urban Administration Department to the GAD, as per letter dated 15-3-1999 Annexure R-I. In furtherance to such recommendation the charge-sheet was issued by GAD on 18-7-2005. In the charge-sheet it is alleged that Petitioner had placed it before the standing committee and Mayor-in-Council, Indore who has passed the resolution No. 128 dated 6-5-1995 granting license of the said Vikram Vatika to a private person. On passing the resolution by the MIC no objection has been raised by Petitioner and the matter has also not referred to State Government. It is further alleged that he had executed the agreement and handed over the possession of the said Vatika to one Narendra Singh Bhadoria, which may amount to misconduct. To explain the delay it is stated that department cannot be blamed for delay, it is the Petitioner, who had filed the reply on 21-7-2009 after about four years of issuance of charge-sheet. It is also said, the record of the case was with the Lokayukt Sangathan and not with the department, however, delay in inspection of documents as alleged by Petitioner is beyond their control. In reply to exoneration by Lokayukt Sangathan it is said that the action taken by the Petitioner is not in accordance to Section 80(1)(5) of the Municipal Corporation Act, and the agreement executed to lease out the said Vatika is amounting to transfer of land of Corporation, which cannot be done without permission of the State Government. In view of the said it is submitted that the enquiry ought to have done on merit, of the facts.

In parawise reply it is said that the Petitioner being a Commissioner of the Municipal Corporation had entered into an agreement with Narendra Singh Bhadoria and allegedly changed the terms of the contract which is detrimental to the interest of the Vikaram University i.e. the owner of the Vikram Vatika and because the due procedure has not been followed by the Petitioner, however, the departmental action has rightly been started. It is also stated that the reply to charge-sheet has not been filed by Petitioner and prolonged the dates for the reason or another, therefore, the delay as alleged is only attributable to him and not the Respondents. It is further contended that the Lokayukt Sangathan has not opined regarding innocence of Petitioner, however, the Respondents are well empowered to initiate the department action by its own, and the recommendation of Lokayukt Sangathan to initiate departmental enquiry is not required. It is further said that the letter written by the Urban Administration Department or by the GAD to drop the proceedings, are either suggestion or proposals, However, looking to the seriousness of the charge, the departmental enquiry has rightly been started. It is said that against the order passed in writ petition, an appeal has been preferred, however, department is having no bias against Petitioner. The GAD circulars (Annexure P-20 and P-21) of completion of departmental enquiry within a period of 13 to 14 months and other averments

have not been disputed by Respondents. In view of the said submissions prayer is made to dismiss the petition as there is no delay on their part.

Petitioner by filing the rejoinder refuted the allegations of delay in filing reply by him. It is contended that despite repeated requests and on submitting applications to supply the documents on 27-7-2005, 9-9-2005, 4-10-2005, 25-11-2005, 16-12-2005, 6-1-2006, 6-3-2006 and 16-6-2009; neither the inspection of the original documents was permitted nor supplied the documents well in time. It is specifically said that he has not made any interpolation in the alleged agreement as on the face of it, it was executed by Mr. Radheshyam Sharma, who may have done some interpolation to which he was found guilty by the Lokayukt Sangathan, and Challan has been filed against him, however, the averments of reply, regarding execution of agreement by Petitioner is completely against the record. On account of these reasons the Lokayukt Sangathan found that Radheshyam Sharma, Lal Mohammad and Narnedra Singh Bhadoria are involved therein and the Challan has been filed against them. It is also said that the provisions of Section 80 of the Municipal Corporation Act are having no application in the facts of this case as the land was not vested with the Corporation, therefore, the contents of the reply filed by State are contrary to the record.

Learned Sr. Advocate Shri G. M. Chaphekar contends that as per the allegations the cause of action relates to May, 1995, the charge-sheet Annexure P-6 has been issued on 18-7-2005 after inordinate delay of 10 years, but no convincing explanation has been put-forth by the Respondents. After issuance of the charge-sheet and on having made various demands original documents have not supplied and the inspection was permitted on 16-6-2009 in furtherance to the intimation dated 8-6-2009 (Annexure P-15) after three and half years. Immediately Petitioner has submitted the reply on 21-7-2009 (Annexure P-21), thus from the date of allowing the inspection, the reply has been submitted by the Petitioner within the reasonable time. In view of the said facts it is urged that there is no convincing explanation on the part of the Respondents why they have taken about four years in allowing inspection of the documents. Therefore, the delay in filing of the reply is not on his part, but it is due to inaction on the part of the Respondents. Such delay is fatal, therefore, in the light of the judgment of the Apex Court in the case of P.V. Mahadevan v. MD. T.N. Housing Board (2005) 6 SCC 636, the charge-sheet and continuation of enquiry is liable to be quashed.

It is further contended by him that the cause of action arose to the Respondents for initiation of departmental enquiry where the present Petitioner was posted on deputation in Housing and Environment Department. The said department had made the proposal to the Principal Secretary, GAD for initiation of the departmental enquiry as per Annexure R-I dated 15-3-1999. Thereafter, it was pending with the GAD, but no early step to issue charge has taken. In the meantime as per note sheet dated 14-11-2002 the GAD was of the opinion that the enquiry ought to have initiated after report of the Lokayukt. Accordingly, the

Urban Administration Department has issued a letter dated 1-10-2003 to the GAD agreeing by their decision and said that after the report of the Lokayukt if Petitioner found guilty then only enquiry may be started. In the enquiry of Lokayukt Establishment Petitioner was not found at fault, however, in the year 2004 Challan has been filed against guilty officers leaving Petitioner. As per note sheet of the GAD dated 7-6-2004 the said opinion of GAD and of Urban Administration Department has again been concurred. But surprisingly vide note sheet dated 7-5-2005 again a proposal was sent for initiation of departmental enquiry as there is no bar to initiate it, and impugned charge-sheet has been issued on 18-7-2005; while the intimation to the Lokayukt Establishment of not filing of the Challan against Petitioner, has been received to the department on 3-1-2006 as apparent from Annexure P-12. Thereafter, 3 1/2 years" time has been taken in inspection of the documents. On 30-5-2006 it was decided that the matter be placed before Sub Committee of ministers to drop the enquiry and the proposal to drop it was prepared on 7-8-2006 on account of exoneration of Petitioner by the Lokayukt Establishment. Again vide note sheet dated 15-9-2006 it is said that the matter is not required to be referred before Sub Committee as the initiation of the enquiry is not based on the information of Lakayukt. Again a proposal dated 18-9-2006 was submitted for closing the enquiry thereupon the Chief Minister of the State put a remark on 1-5-2009 that after receiving the reply from the officer the enquiry may be dropped. Accordingly, the inspection was permitted after the delay of three and half years and on receiving reply, in place of dropping the enquiry, the presenting officer and inquiry officer has been appointed vide order dated 9-12-2009, and directed to hold the enquiry. In view of the said note-sheets, learned senior counsel contends that the delay is not on his part but it is attributable to Respondents only. He has placed reliance on a judgment of Apex Court in the case of The State of Madhya Pradesh Vs. Bani Singh and another, and submitted that in said judgment the departmental enquiry initiated after 12 years on acquittal in criminal case, was found fatal and quashed the charge-sheet. Reliance has further been placed on the judgment of Apex Court in the case of State of Andhra Pradesh Vs. N. Radhakishan, wherein the Apex Court found that the departmental enquiry after the delay of six years is fatal and it has been quashed. Reliance has also been placed on Division Bench judgment of this Court in case of Sadashiv Shivram Garud and Others Vs. Food Corporation of India and Others, , wherein also this Court has quashed the charge-sheet and continuation of such departmental enquiry on the ground of delay and laches. Two other judgments of Single Bench of this Court in the cases of Jayant Kumar Satpute v. State of M.P. W.P. (s) No. 1479/2006 and Satish Kumar Tiwari v. State of M.P. and Anr. W.P. (s) No. 1243/2006, have relied upon; wherein also the departmental enquiry has been quashed on the ground of delay and laches.

It is further contended by Shri Chaphekar, learned Sr. Advocate that delay to initiate the departmental enquiry causing serious prejudice to him, because during such period he has denied grant of Senior Selection Scale, although

incumbent juniors have extended such benefit. It is contended that the departmental enquiry of year of 1995 was pending, but in the year of 1999 Selection Scale was allowed, at that point of time no such objection had taken, but at the subsequent stage of grant of senior selection scale the objection as raised due to bias, because his transfer from Indore Development Authority to Alirajpur has been challenged by him before this Court and the said petition was ultimately allowed quashing his transfer. The reason to continue the protracted enquiry would clear, that the Petitioner is the officer of the SAS Cadre of year 1986, while the offers of SAS Cadre up to year 1985 have already been granted I.A.S. When his promotion has fallen due, then after 15 years the departmental enquiry has been started against him. It causes serious prejudice, mental agony to the Petitioner, however, in such circumstances the delay which causes the prejudice to the Petitioner is fatal. Therefore, the charge-sheet and the departmental enquiry may be quashed, and the direction to grant selection scale may be issued.

On the other hand Shri Vivek Patwa, Dy. G.A. submits that the enquiry by the Lokayukt Establishment for the said cause is a different action then initiation of departmental enquiry, however, the Respondent department has decided to continue with the departmental enquiry against the Petitioner, even on exoneration by the Lokayukt Establishment as he was not innocent in the said enquiry. After taking such decision if departmental enquiry is initiated, for the serious lapses on his part, it cannot confer any right to him seeking quashment only on the ground of delay and laches. It is further submitted that the delay in continuation of the departmental enquiry is not on the part of Respondents only, but it is attributable to Petitioner also as he has filed reply after three and half years of issuance of charge-sheet. Therefore, the Petitioner himself is trouble shooter, and for his own doing he cannot embarked upon of delay on the part of the Respondents. It is also contended by him that the departmental enquiry was initiated in the year 2005 by issuing the charge-sheet and the Senior Selection Scale was allowed to the incumbent juniors later, however, his representations has rightly been rejected, as the recommendation of the screening committee has been kept in sealed cover, which is apparent from letter dated 15-6-2009 (Annexure P-19) . It is contended that due to quashment of order of his transfer by this Court, there cannot be any bias to the department, however, the submission as made by Petitioner are of no substance. At last it is submitted that so far as the State Administrative Services cadre of the year 1986 is concerned it is a matter of record and if the SAS officers of the year 1986 is under consideration it may be consider as per law. In view of the said it is urged that the petition filed by the Petitioner may be ordered to be dismissed.

After hearing the rival submission of counsel appearing on behalf of the parties and on going through the charge-sheet Annexure P-6 dated 18-7-2005, it is apparent that the cause to initiate departmental enquiry arose on 30-5-1995 and the charge-sheet has been issued after more than 10 years. On perusal of the record it reveals that the Urban Administration Department had made the

proposal of initiation of departmental enquiry, vide letter dated 15-3-1999 Annexure R-I, though show cause notice was issued to the Petitioner on 16-8-1996 and reply thereof was filed by him on 14-10-1996, as apparent from the documents attached with Annexure R-I. There is no explanation why more than 2 1/2 years have been spent by the Urban Administration Department to make a proposal to the parent department (GAD) to initiate departmental enquiry against Petitioner. Thereafter in the note sheet of the GAD dated 20-9-2000 it was realized by them about 5-6 years delay has occurred in initiating departmental enquiry, and on the basis of the photocopies enquiry may be started. The proposed charges were framed by the Urban Administration Department, but ultimately on 14-11-2002 again it was decided that the enquiry should be started after obtaining report from the Lokayukt Establishment. Accordingly, a proposal was sent by the GAD to Urban Administration Department, which was approved by the Urban Administration Department, vide intimation dated 1-10-2003 (Annexure P-5). As per note sheet of the Minister dated 28-5-2004 it was further decided that the departmental action may be started only after receiving the report of Lokayukt Establishment, if delinquent found guilty, at present no action is expected against him. Thus, it is apparent that the GAD and Urban Administration Department, both have decided that after receiving the report from the Lokayukt Establishment, if the delinquent found guilty the departmental enquiry may be proposed against him. The said decision has again been concurred by the Minister of GAD vide its note sheet dated 28-5-2004 as well as by the Additional Secretary of the department vide its note sheet dated 7-6-2004. Surprisingly, a fresh note sheet had written by GAD for initiation of departmental enquiry dated 7-5-2005 and in furtherance thereto a charge-sheet was issued on 18-7-2005. It is to be noted here that the Lokayukt Establishment has not found any material or evidence against the Petitioner to file Challan, while other found guilty. It has not been explained that under what circumstances earlier decision taken by the Urban Administration Department and the GAD vide Annexure P-5 dated 1-10-2003 has been reviewed and why the GAD has again decided to initiate the departmental enquiry. It is further seen from the record that after issuance of the charge-sheet Petitioner was called for the inspection of the documents vide letters dated 18-7-2005, 8-11-2005 and 30-12-2005, but on account of non-availability of the original record the inspection may not be possible. Thereafter, the Petitioner was again called for inspection after three and half years as apparent from the document Annexure P-15. There is no explanation why three and half years time has been taken by the department in obtaining the certified copies from the Lokayukt Establishment, through the Urban Administration Department, it is undisputed that after inspection within 1 1/2 months the reply has been filed by the Petitioner keeping his right reserved to raise the points on availability of the original documents. In the meantime the GAD department has itself sent a proposal dated 15-9-2006 for closure of the departmental enquiry by a Sub-Committee and a further proposal for closing the enquiry dated 18-9-2006. As per note sheet of Chief Minister dated 1-5-2009, it is apparent that the enquiry

should be dropped after receiving reply from the concerning officer, then under what circumstances again the enquiry was started, it has not been explained. As per the GAD circulars Annexure P-22 and P-23, it is apparent that the departmental enquiry ought to have been completed maximum within the period of 14 months. In the present case the department has not explained why the Urban Administration department has taken four years in making proposal of initiation of departmental enquiry. It has further not explained why the GAD has taken six years thereafter in issuance of the charge-sheet. Why three and half years time has been spent by the department to allow inspection of the documents has also not been duly explained. Thus no convincing explanation of such delay is available in the return filed by the Respondents. The stand taken in the return regarding initiation of departmental enquiry independent to the Lokayukt enquiry is no doubt true, but it is not explained why the department has not simultaneously initiated the enquiry proceedings in the year of 1995 itself. It is surprising that initiation of the departmental enquiry was on the proposal of the Urban Administration Department, as apparent from Annexure R-I dated 15-3-1999, thereafter both the departments i.e. Urban Administration Department and GAD has decided that enquiry may be started after the report of the Lokayukt, and the GAD concurred it by note sheet dated 7-6-2004. In the meantime Lokayukt Establishment was not found any evidence against the Petitioner, therefore, the Urban Administration Department has issued a letter Annexure P-14 dated 12-9-2006 and said that no action is proposed against Petitioner. The GAD has acknowledged the same and the proposal was submitted on 18-9-2006 for closing of the enquiry. Thereafter, the Chief Minister as per his note sheet dated 1-5-2009 observed to drop the proceedings after taking reply. Thus Urban Administration Department after its decision dated 1-10-2003 and on receiving the report of the Lokayukt of exonerating of Petitioner, has not made any proposal for initiation of the departmental enquiry. Nothing is available on record before this Court, what has persuaded GAD to initiate departmental enquiry again, though the cause of action relates to the posting of Petitioner in Urban Administration Department, which was satisfied by the report of Lokayukt. Thus, there was no necessity to GAD to initiate the departmental enquiry contrary to their consent; the said conduct of the GAD has remained unexplained in the return.

In view of the foregoing discussion, it is apparent that there is massive delay of 10 years in issuance of the charge-sheet from the cause of action, and more than six years from the date of proposal (Annexure R-I) of the Urban Administration Department. The explanation of delay as submitted is not convincing in the opinion of this Court. It is further seen that after issuance of the charge-sheet more than three and half years have been spent by GAD in permitting inspection of the documents, to which also no convincing explanation is on record. During such period the incumbent juniors have been allowed Senior Selection Scale keeping the recommendation of the Petitioner in sealed cover. It causes serious prejudice for no fault of the Petitioner. As per GAD circulars the

departmental enquiry ought to have been completed maximum within a period of 14 months. The said instructions have been issued with a view to avoid protracted enquiry proceedings. In the facts it is apparent that GAD had itself decided to not to hold departmental enquiry until found guilty by the Lokayukt Establishment. Now after 15 years again the enquiry has been started arbitrarily. It is not disputed by the Respondents that the SAS officers up to the year 1985 has been considered for grant of IAS cadre and the Petitioner is of the year 1986, however, continuation of enquiry may seriously prejudice to his promotion prospects. Thus, inference can be drawn, of biased attitude of the GAD for the reasons best known to them. The said action is against their own circulars of avoiding protracted enquiry. The Apex Court in the cases of P.V. Mahadevan v. MD. T.N. Housing Board (supra) State of M.P. v. Bani Singh and Anr. (supra) and State of A.P. v. N. Radhakishan (supra) has held that if there is a delay in initiation of departmental enquiry and is not convincingly explained, such action is seriously prejudicial to the employee then the departmental enquiry may be quashed, on the ground of delay and laches.

In view of the foregoing discussion in the opinion of this Court there is an inordinate delay of 10 years in initiation of departmental enquiry and the explanation in this regard is not convincing; further the delay in continuation of the said enquiry for 4 1/2 years has also not been properly explained, which cannot be attributable to Petitioner, in view of the aforesaid facts. In the opinion of this Court at this stage continuation of the departmental enquiry causes serious prejudice to Petitioner, however, the charge-sheet and the departmental enquiry is liable to be quashed. In view of the aforesaid discussion rejection of the representation for grant of Senior Selection Scale dated 15-6-2009 (Annexure P-19) is also liable to be quashed.

Accordingly, this petition is allowed and the charge-sheet dated 18-7-2005 (Annexure P-6) is quashed, consequentially, the departmental enquiry is hereby quashed. The order of rejection of representation for grant of Senior Selection Scale dated 15-6-2009 Annexure P-19 is also quashed, with a direction to the Respondents to reopen the seal cover and to pass appropriate orders in the matter of grant of Senior Selection Scale to the Petitioner. It is made clear here that if the Petitioner found fit for grant to such benefit, it be extended to him at par to the incumbent juniors within the period of three months. In the facts and circumstances of the case there shall be no order as to costs.