

(2009) 10 DEL CK 0231

In the Delhi High Court

Case No : WP (C) No"s. 3971 and 3972 of 2000

Prithvi Singh Kem

APPELLANT

Vs

Hon"ble Chief Justice, Delhi High Court

RESPONDENT

Date of Decision : 21-10-2009

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 14

Constitution of India, 1950 — Article 14, 15, 16, 16(4), 229

Delhi High Court Establishment (Appointment and Conditions of Services) Rules, 1972
— Rule 11, 12, 2(8), 8

Citation : (2010) 166 DLT 1

Hon'ble Judges : Suresh Kait, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : Party-in-Person, for the Appellant; Krishanu Adhikary, for Viraj Datar, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—The two writ petitions filed by Prithvi Singh Kem are being disposed of by this common judgment and order.

2. In prolix and repetitive pleadings, the petitioner has projected his case in a mumbled jumbled manner and hence we may briefly note the turbulent course chartered by the petitioner after he was given employment in the Delhi High Court.

3. On 26.05.1967 petitioner submitted an application for being appointed as a Clerk in the Delhi High Court on the basis that he had learnt that there was a post of Clerk lying vacant. Along with the application, the petitioner filed documents, inter alia, relating to his educational qualifications and caste. Copy of the CBSE certificate placed on record by him shows that his date of birth is 15.05.1944.

4. After about two years of submitting the application, the petitioner was issued

an appointment letter dated 14.05.1969 appointing him against a temporary post of Restorer. It was received by the petitioner on 15.05.1969. On the same day, the petitioner gave his joining report i.e. 15.05.1969.

5. After the petitioner had rendered about 6 years in service as a Restorer, a circular dated 21.04.1975 was issued by the Delhi High Court to hold a test to the post of Assistant/Junior Reader, which ultimately changed the course of the career of the petitioner. One thing after another led to the ultimate dismissal of the petitioner from service on 19.03.1987.

6. The petitioner did not appear in the test for the post of Assistant/Junior Reader pursuant to the circular dated 21.04.1975. Instead, he made a representation dated 28.07.1975 for promotion to the post of Assistant. In this representation, the petitioner made a request that his application be considered for promotion, amongst others, on the ground that there was a quota reserved for members of the Scheduled Caste and Scheduled Tribe in "other Government Offices". He stated in this letter: "...And if the quota for Scheduled Caste Officials is not fixed and reserved in this office then I would like to say meekly that the quota for Scheduled Caste Officials for their appointment and promotion may kindly be fixed and reserved by your kind Honour in this office also while on the other hand, the Govt. of India is trying her best to uplift the people of downtrodden community in their welfare". In this letter he had also made a request stating "I hope that my application will positively be received and considered politely by your kind Honour with reasonable care and full preference will be given to me in the examination to be held shortly for the post of Assistant because being a Scheduled Caste and qualified official I deserve this position to be an Assistant in light of the reservation for Scheduled Caste".

7. It may be noted that the Recruitment Rules framed by the Delhi High Court, in exercise of powers under Article 229 of the Constitution of India, on 15.09.1972 do not provide for any reservation for the members belonging to the Scheduled Caste and Scheduled Tribe, either at the stage of initial appointment or at the stage of promotion. The rules only provide for relaxation of age to such candidates. It was only in the year 1976, for the first time, that there was an amendment in the Rules, by introducing an amendment 9-A, providing for reservation for members of the Scheduled Castes and Scheduled Tribes, but limited to initial recruitment and only pertaining to Class III and Class IV posts. In other words, even till date, there is no reservation for the members of the Scheduled Castes and Scheduled Tribes in promotions and there is absolutely no reservation for members of the Scheduled Castes and Scheduled Tribes in the posts higher than Class III posts.

8. The representation dated 28.07.1975, referred to in para 6 above, was followed by incessant representations and reminders sent to various authorities by the petitioner. Vide letter dated 20.12.1975 the petitioner was informed that his representation was under consideration. Since the petitioner did not stop making representations, a letter dated 17.1.1976 was issued to him whereby he

was advised not to make further representations to anyone, except to the Chief Justice, as his representations were under consideration. The petitioner, however, did not stop and continued to make representations unabated. After a first few representations, the language used in the letters turned intemperate and objectionable. This led to his suspension on 14.04.1977 and institution of the first inquiry against him. A charge-sheet dated 22.4.1977 was served on the petitioner pertaining to two charges; being:

(i) using intemperate language in his various representations; and

(ii) that he continued to address his representations to authorities other than the Chief Justice of this Court in violation of the directions given to him not to do so.

9. The Inquiry Officer gave report indicting the petitioner holding that the two charges stand against him. The petitioner was given an opportunity to make a representation against the proposed penalty before imposing on him the penalty of "withholding two time scale increments with cumulative effect; and consequently his suspension was revoked".

10. After the service of the said order invoking the penalty and revoking the suspension and requiring the petitioner to resume duty, the petitioner wrote letter a dated 07.08.1978 and did not join duty, apparently for the reason, that in the order dated 29.07.1978 issued by this Court, the word "reinstated" had been used, not indicating whether the petitioner was to join duty or not. This is what has been written by the petitioner in the first paragraph of his letter dated 7.8.1978. We quote:

With reference to your letter No. 416/Estt./dt. 24.07.1978, an endorsement noted on the above subject, I am to ask you to intimate me with an immediate effect whether I may or may not resume my official duties as in addition to the word "Reinstated", nothing has been spoken by your tongue about resuming of my official duty intentionally carrying mens rea in your mind.

11. It is apparent that the petitioner was unnecessarily quibbling with words. It was clear that the petitioner was required to report back for duty by giving a joining report in the General branch and thereupon the seat at which the petitioner was to work would have been indicated to him.

12. As noted above, although the petitioner sent the letter dated 07.08.1978, but he did not join duty. He continued to remain absent. On 19.09.1978 the petitioner served a show cause notice pertaining to his continued absence as to why action should not be initiated against him, he, however, continued to make representations but did not join the duty. Because of continuous representations pouring in, the petitioner was asked to see Hon"ble the Chief Justice on 13.03.1979. The petitioner wrote back a letter dated 12.03.1979, a day before he was to see Hon"ble the Chief Justice, stating "unless his case for promotion is decided, he would not join duty." The petitioner did not turn up to see Hon"ble the Chief Justice on 13.03.1979. Accordingly, for his continued absence, a second

inquiry was instituted against the petitioner. The charge against the petitioner was of continued absence without authorized leave. The Inquiry Officer submitted his report on 14.02.1980. In this report, the Inquiry Officer tried to justify the absence of the petitioner from duty owing to reason: "it was (absence) sheer out of frustration". The inquiry officer held the petitioner not guilty. Apparently, said finding was not agreed to by Hon"ble the Chief Justice. On the basis of the evidence, the Chief Justice proposed that "a punishment of removal from service be imposed against the petitioner, unless the petitioner resumes duty and apologizes for his conduct". This was conveyed to the petitioner vide letter dated 31.03.1980. The petitioner, however, still did not resume duty till 31.07.1980. The petitioner reported in the General branch for duty on said day.

13. As it appears, on 17.02.1981, the petitioner was promoted as Assistant on ad-hoc basis clearly indicating that said appointment would not confer upon the petitioner any right for regular appointment, which would ultimately be made in accordance with item No. 8 of Schedule II of the Delhi High Court (Estt./Appt.) Service Rules 1974.

14. On 15.3.1984 while working in the Record Room, the petitioner refused to obey the directions of the Superintendent in charge of the record room, pertaining to which misdemeanor a report was placed before Hon"ble the Chief Justice by the Deputy Registrar (Establishment).

15. On 22.3.1984, petitioner was transferred from Record Room to Original Branch under the orders of Hon"ble the Chief Justice. Before the said order could be served upon the petitioner, he left the office and remained absent thereafter.

16. After about 4 months, on 17.7.1984, the petitioner submitted an application informing that he was joining duty after availing Earned Leave from 24.03.1984 to 16.07.1984 and that he be allowed to rejoin duty in the Record Room. In this application, the petitioner clearly stated that he had laid a condition that he would resume duty only on the condition that he would be allowed to join duty in the Record Room.

17. On 19.7.1984, it was communicated to the petitioner that on his failure to report for duty to the Superintendent of Original Branch, he would be treated as absent and appropriate action would be taken against him. In spite of being cautioned, the petitioner did not resume duty.

18. This led to the issuance of a memo dated 07.08.1984 directing the petitioner to resume duty. The petitioner continued to be defiant. He did not report for duty. Ultimately, on 21.8.1984, the petitioner was suspended for disobedience of the orders/directions issued by the superiors to the petitioner. Articles of charge were served on the petitioner on 22.2.1985. The charges related to:

His refusal to comply with the directions of the Superintendent Record Room and Joint Registrar (Judicial) and keeping the records of the decided court cases

stacked on the floor and not restoring them;

Not complying with the directions vide orders dated 22.3.84, 21.7.84 and 7.8.84 for reporting for duty; and

Absenting unauthorizedly from 22.3.84 to 22.8.84, the date on which he was put under suspension.

19. The inquiry officer indicted the petitioner, who, after following the process of law was ultimately dismissed from service vide order dated 19.3.1987.

20. The petitioner challenged the said dismissal by filing the Writ Petition No. 1235/1987. In this writ petition, the prayer made by the petitioner was not only including setting aside the order of his dismissal from service, but also the prayers such as, to treat the petitioner as confirmed Assistant w.e.f October, 1975; to declare all the actions taken against the petitioner w.e.f 14.04.1975 till the filing of the writ petition as wrong ab-initio and be paid arrears which have not been paid to the petitioner w.e.f 14.04.1975 till the date of resumption of his duties on 31.07.1980; and the CCS(CCA) Rules, 1965 are not applicable to the High Court staff in view of Rule 11 of Delhi High Court Establishment (Appointment and Conditions of Service) Rules, 1972. Being relevant for the purposes of the disposal of the two writ petitions being decided by us, the prayers made in the writ petition No. 1235/1987 may be noted; being as under:

Prayer

For the reasons expatiated above in detail, the petitioner most deferentially negates as under:

(i) That the relevant records of the respondent and the petitioner be called for and be ordered to be placed before this Hon"ble Court of law forthwith for the proper and deep appreciation of the entire submissions of the petitioner by this Hon"ble Court and for just decision of this case.

(ii) That this case should only be decided on the judicial side in any manner at the initial stage of admission for the petitioner owing to the nonavailability of his subsistence allowances w.e.f. March, 1987 in other proceedings pending against the petitioner under the CCS (CCA) Rules, 1965 is dying of hunger along with minor and school going children and has been suffering too much mentally, physically in this critical juncture with a further direction to release at once w.e.f March, 1987 the petitioner's subsistence allowances being paid to the petitioner under suspension in some other departmental proceedings under the CCS (CCA) Rules, 1965 which are still pending in view of 1986 (1) SLR 315 J & K till this writ petition is fully decided and finally disposed of with a further direction/declaration that dismissal order No. 75 dated 27.3.1987 marked as Annexure-U-7 in the absence of the service of the Notice No. 2487/Estt. Dated 19.2.1987 marked as Annexure- U-2 is an intentional towards on the petitioner's way of getting success in this writ petition and in petitioner's another Civil Writ Petition No. 11982/1984 entitled Shri P.S. Kem v. Hon"ble Supreme Court of India after

admission on 19.6.1984 for the post of Superintendent and is quashed accordingly w.e.f. the date on which it had been issued and served upon the petitioner wrongfully being ultra virus, illegal and full of revenge motive. See also Memo No. 837/Estt. Dated 21.1.1987, Commissioner of Police, Bombay Vs. Gordhandas Bhanji, , Ghaio Mall and Sons Vs. The State of Delhi and Others, and all the relevant memos which is marked as Annexure-U-2, letter No. 4/87 P & K dated 6.3.1987 marked as Annexure-U-3;

(iii) that a writ mandamus or certiorari or any other writ as this Hon''ble Court may deem fit be issued directing/ordering the respondent to count the petitioner's seniority in the category of clerks w.e.f. the date of his initial appointment giving to the petitioner all is benefits with retrospective effect; See 1982 (2) SLJ 633 Bombay with a further directions that the petitioner's future benefit will not be injured on any ground or grounds.

(iv) to treat the petitioner as an automatically confirmed Assistant w.e.f. October, 1975 without test under Article 14, 15 and 16(4) of the Constitution of India giving to the petitioner one post out of 77 posts of permanent nature just as 4 persons like S/Shri Jagjit Singh. J.N. Verma, Sohan and B.K.Nagpal were promoted to the post of Assistant without test; in view of Rule 12 of the Delhi High Court Establishment Appointments and Condition of Service Rules, 1972 though under Rule 8 of the above said departmental Service Rules, 1972 there is a provision of holding a test with a further direction that under Rule 8 of the Delhi High Establishment (Appointment and Conditions of Service Rules, 1972 it was the duty of the Department to take test of the aforesaid four persons and that if the Government commits any wrong or passes wrong orders creating hostile discrimination amongst the staff (See Memo No. XXXIX C.I. (2) 77/Estt. 582 dated 18.1.1977 marked as Annexrue-I-1 at Page 221 of the writ petition), the Government servant cannot made liable to suffer from the wrong orders or acts of the Government (See Page 161 and 162 lines 8 and 8 from bottom of Page 182, page 184 at top, Page 185 last para, Page 186 first para, page 194, 197, 199 and 203 and 152 etc.) of this writ petition and with a further direction to the Respondent that while the probationary period is over once according to the Rule, the same cannot be extended again and again with a further declaration that during the probationary period, the work and conduct of the employee/appointed official cannot be assessed for there is no "Candid Expression" in Rule 8 of the departmental service Rule 1972 that during the probationary period the work and conduct of an appointed official on probation shall be assessed. (See page 160 and ante at page 341 and note at page 335 and 336 of this writ petition and State of Kerala and Another Vs. N.M. Thomas and Others, Delhi High Court Civil Writ Petition 1184/75 between Shri Ram Pat and Ors. v. Union of India and Ors. See 1985 (1) SLR 529 Sat Pal and Ors. v. Delhi Administration and Ors., 1974 (1) SLR 733 or 1984 (3) SLR 756, 1979 (1) SLR 468, 1981 (2) SLR 627 or 1981 (2) SLJ 218 HP Reference Hira Nand v. State of Himachal Pradesh.

(iv) To declare that all the actions taken by the respondent against the petitioner w.e.f. 14.4.1975 till the filing of this writ petition are quashed being wrong ab initio being under the CCS (CCA) Rules, 1965 and that the petitioner within one month from the date of the final decision of the writ petition along with interest is entitled to all the arrears which have not been paid to the petitioner w.e.f. 14.4.1977, till the date till the date of resuming his duty on 31.7.1980 conditionally vide letter No. 30/80 PSK dated 14.7.1980 due to the petitioner's illegal suspension under CCS (CCA) Rules, 1965 with a further declaration that the CCS(CCA) Rules, 1965 are not applicable to the High Court staff in view of Rule 11 of Delhi High Court Establishment (Appointment and Conditions of Service Rules, 1972) See page 161 of this writ petition and See 1984 (2) SLJ 144 (P&H).

(v) to direct in any manner as this Hon"ble Court may deem fit keeping in view the entire submission made by the petitioner in para 24 of the writ petition in the interest of doing justice with the scheduled caste petitioner for the petitioner being a poor man of depressed Section belonging to the scheduled casts is very much interest in doing his service in the Registry of this Hon"ble Court;

(vi) to declare that the dismissal order No. 75 dated 27.3.1987 served upon the petitioner two days after the filing of the petitioner's writ petition No. 867/87 on 26.3.1987 of which this present writ petition as per verbal direction of the Court is an amelioration in the garb of a fresh writ petition is quashed being illegal and premature in the other III departmental inquiry proceedings pending against the petitioner under the CCS(CCA) Rules, 1965, due to the absence of the service of Memo No. 2437/Estt. dated 19.2.1987 marked as Annexure-U-2 which was served upon the 3rd person who is not the petitioner's family member within the meaning of the definition of the term "family", under Rule 2(8) of the Supplementary Rule with a further declaration that the dismissal order being issued under the CCS (CCA) Rules, 1965 on the basis of a report of inquiry which is wrong ab initio and an intentional thwart on the petitioner's way of getting success in this writ petition and that the same has no concern with the facts of this writ petition (See Memo No. 837/Estt.dated 21.1.1987 marked as Annexure-U, letter No. 2/87 PSK dated 6.2.1987 marked as Annexure U-1 and Memo No. 2437/Estt. dated 19.2.1987 (which was never served upon the petitioner) marked as Annexure U-2 letter No. 4/87 PSK dated 6.3.1987 marked as Annexure-U-3 and dismissal order No. 75/dated 27.3.1987 marked as Annexure-U-7 etc.

(vii) to direct the respondent that the scheduled caste petitioner shall not be tortured on any pretext or pretexts, directly or indirectly and internally or externally till his superannuation for he is very much interested in the Government service, of this Hon"ble High Court;

(viii) that the costs of the petitioner along with interest may also kindly be allowed to the petitioner for he is an indigent schedule caste and has and has been suffering too much mentally, physically and financially due to the infatherly

attitude of the department that has been treating the petitioner as a Pariah of the High Court staff.

(ix) To direct the respondent to maintain status quo in view of letter No. 30/80 PSK dated 14.7.1980 and letter No. 34/80 PSK dated 31.7.1980 marked as Annexure....

(ix) be removed from the records suits (original) original further promotion is given.

(x) any other further order/orders as this Hon'ble Court may deem fit may kindly be passed in the interest of justice keeping in view the material facts and circumstances of this case.

21. CW No. 1235/1987 was listed for hearing before a Division Bench of this Court on 24.8.1987. Limited Rule was issued. The order dated 24.08.1987 reads as under:

Present: Petitioner in person.

C.W. 1235 of 1987:

Rule, restricted to the charge-sheet dated 22nd February 1985, the departmental inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 conducted in pursuance of this charge-sheet and the impugned order dated 27th March 1987 awarding penalty of dismissal from service.

C.M. 3306 of 1987:

Dismissed.

22. It is apparent that the order dated 24.08.1987 makes it clear that the aforesaid writ petition was admitted only in respect of the order of dismissal dated 27th March, 1987 and by implication the other prayers made by the petitioner in the petition challenging the earlier actions against him were rejected.

23. The said petition was dismissed vide judgment and order dated 21st April, 1998. With reference to the other prayers made by the petitioner in the said writ petition, it was recorded in the judgment:

6. This Court had already restricted the scope of the writ petition to only proceedings relating to charge and ultimate order passed by this court and, therefore, the case of the petitioner that he was harassed cannot at all be gone into.

24. While dismissing the writ petition, this Court made the following observations:

On a perusal of the records, leading to the disciplinary proceedings, I have no hesitation in coming to the conclusion that this Court had followed the principle of natural justice and the punishment imposed on the petitioner was fully

justified and the petitioner has not made any case for interference.

25. The petitioner had preferred LPA No. 237/1998 against the said judgment and order dated 21.4.1998. It may be noted that the petitioner had raised only one point before the Appeal Court during the hearing of LPA and that was: "the entire disciplinary action against him was taken under the Central Civil Services (Classification, Control and Appeal) Rules, 1965. These Rules are not applicable to the High Court employees and, therefore, the whole action is without authority of law and is vitiated." In so urging, the petitioner made a reference to Rule 11 of the Delhi High Court Establishment (Appointment and Conditions of Service) Rules, 1972.

26. Dismissing the appeal, inter alia, following observations were made by the Division Bench:

On a careful consideration of submissions on both the sides, we agree with the learned Counsel that the reference in Rule 11 of the Delhi High Court Establishment (Appointment and Conditions of Service) Rules, 1972 to the Central Government Service Conduct Rules is really a reference to all the relevant Rules as in force for the time being relating to Government servants. This reference cannot be said to be a reference to only to the Central Civil Services (Conduct) Rules. Accordingly, we find no merit in the contention of the appellant that the disciplinary action is not in accordance with the Rules. The appeal dismissed.

27. Not satisfied with the decision in the appeal, the petitioner preferred a SLP (SLP No. 5656/2000) against the said judgment passed in LPA No. 237/2008. The said SLP was dismissed as withdrawn on 13.04.2000. The order passed by the Supreme Court is as follows:

Learned Counsel for the petitioner seeks leave of the Court to withdraw this petition. The SLP is dismissed as withdrawn.

28. Immediately after withdrawing the petition for special leave to appeal, the petitioner filed Writ Petition No. 3971/2000 and Writ Petition No. 3972/2000 in this Court on 24.07.2000.

29. It may be noted that the prayers made in Writ Petition No. 3971/2000 are substantially the same as were made in Writ Petition No. 1235/1987, which prayers were not permitted to be urged and hence were deemed to be declined, evidenced by the limited show cause notice issued in W.P.(C) No. 1235/1987. For ready reference, we note, in a tabular form, the prayers in the two writ petitions whereby the petitioner challenged the inquiries against him and prayed that he may be treated as a confirmed assistant w.e.f. October 1975.

-----	WP(C)
3971/2000	1235/1987
-----	Prayer 1. That
the petitioner	Prayer 4. To treat the w.e.f the date on which seven petitioner as

an automatically officials belonging to the confirmed Assistant w.e.f upper caste were promoted to October 1975 without test the post of regular Assistant under Article 14, 16(4) of the vide impugned Memo Constitution of India giving to No. V.B.6(2) 76 dated the petitioner one post out of 11.8.1976 marked as 77 posts of permanent nature Annexure C-2 neglecting the as four persons namely s/Shri petitioner though the Jagjit Singh, J.N. Verma, Sohan reservation had validly come Singh and B.K. Nagpal were into force w.e.f 2.8.1976, the promoted to the post of petitioner without test is Assistant without test in view entitled to his promotion to of Rule 12 of Delhi High Court the post of regular Assistant Establishment (Appointments just as four persons namely and Conditions of Service) s/Shri Jagjit Singh, J.N. Verma, Rules, 1972.... Sohan Singh and B.K. Nagpal were admittedly promoted to the post of Assistant giving relaxation to them under Rule 12 of Delhi High Court Establishment (Appointments and Conditions of Service) Rule, 1972.

Prayer 2. That the impugned Prayer 3. To declare all the actions taken by the actions taken by the respondent for placing the respondent against the petitioner under suspension petitioner w.e.f 14.04.1977 till on 14.04.1977 vide impugned the filing of this writ petition memo No. 214/Estt. dated are quashed being wrong, 14.04.1977.... being under the CCS (CCA) imposition of impugned Rules, 1965 and that the penalty of with-holding of two petitioner within one months time scale increments with from the date of the filing of cumulative effect upon the the writ petition alongwith petitioner vide impugned interest is entitled to all the memo No. 416/Estt. dated arrears which have not been 29.07.78 marked as Annexure paid to the petitioner w.e.f A are quashed being the same 14.04.1977 till the date of illegal, arbitrarily, malafide, resuming his duties on ultra vires, untenable in law, 31.07.1980 vide letter No. not maintainable in law, bad 30/80 PSK...with a in law and without following further declaration that CCS the principles of natural (CCA) Rules, 1965 are not justice and naked violation of applicable to the High Court Article 14, 16, 46, 311(2), staff in view of Rule 11 of 335, 338 of the Constitution Delhi High Court of India being the same Establishment (Appointments action/memo taken/issued by and conditions of Service) the respondent under the Rules, 1972. Central, Civil Service (Classification, Control and Appeal) Rules, 1965 which are not applicable to the High Court staff in view of Rule 11 of the Delhi High Court Establishment (Appointments and conditions of Service) Rules, 1972.

30. It may be noted that in Writ Petition No. 3971/2000, in the prayer clause, there is no relief claimed as to his termination in the year 1987. Although the relief claimed in WP (C) 3971/2000 are substantially the same as prayed for in the earlier writ petition No. 1235/1987, but assuming that these reliefs were not claimed in the earlier Writ Petition No. 1235/1987, then it can be said that petitioner had the opportunity to claim the same relief soon after the cause of action arose for claiming such relief in the year 1977-78. Thus, there is no justification whatsoever for the petitioner to file W.P.(C) No. 3971/2000 after 20 years of the cause of action having accrued.

31. W.P.(C) No. 3971/2000 is liable to be dismissed on two grounds. Firstly that the reliefs claimed therein are barred by res judicata, in that, substantially the said reliefs were prayed for in W.P.(C) No. 1235/1987 and were declined. Alternatively, assuming that the reliefs claimed in W.P.(C) No. 3971/2000 are different, the writ petition suffers from inordinate delay and laches.

32. Pertaining to W.P.(C) No. 3972/2000, the prayer Clause 2 of this petition would show that the petitioner himself admits that he had filed a similar petition earlier i.e. W.P.(C) No. 1235/1987 and the decision in the same against him was challenged by him by way of LPA No. 237/1998 and then by filing an SLP against the judgment passed in LPA. The present petition was filed, "on verbal suggestion given by the Hon"ble Supreme Court" after the SLP No. 5656/2000 was dismissed as withdrawn.

33. Suffice would it be to state that in the absence of any express leave granted by the Supreme Court to file a fresh writ petition on the same cause or permitting new issues to be raised, the instant writ petition is clearly an abuse of the process of law for the reason all reliefs arising out of a cause of action have to be urged in one proceedings and all pleas available pertaining to a cause of action have to be pleaded at the first instance.

34. One may note that in Para 13 of the writ petition, the petitioner states that after the memo of charge-sheet was served upon him he did not file his written statement of defence but had opted to file a Civil Writ Petition. The said writ petition was dismissed on 20.12.1985, wherein, it was stated that the petitioner would be entitled to raise the various contentions forming subject matter of the petition, if any, and challenge eventual disciplinary action that may be taken against the petitioner on the basis of the inquiry. The petitioner chose not to do so.

35. One may also note that the inquiry proceedings show that the petitioner had not cooperated in the inquiry. The witnesses had to be examined in his absence. He had the opportunity to place on the record of the inquiry whatever he wished to bring on forth by way of his defence. The petitioner chose not to do so. It may be noted that while dismissing W.P.(C) No. 1235/1987, as stated above, it was clearly observed that this "Court had followed the principles of natural justice and the punishment imposed on the petitioner was fully justified". Once the finding is given by the Court that the principle of natural justice had been followed before imposing the penalty of dismissal on the petitioner, the petitioner cannot be permitted to re-agitate the said issue.

36. Thus, even W.P.(C) No. 3972/2000 is liable to be dismissed as an abuse of the process of the Court and barred by res judicata as also barred by delay and laches.

37. Both the writ petitions are dismissed. We refrain from passing any orders as to costs against the petitioner keeping in view his old age and the fact that he is without a job and without any pension.