

(5) On general principles too, there is no law, rule or instruction which lays down that once a person is appointed, even on a stop-gap or *ad hoc* arrangement, he acquires thereby a vested right, as it were, to be considered for appointment or given appointment thereafter, if and when any similar vacancy arises in the future. Such a proposition would be wholly untenable in law and is not one that can be countenanced.

(6) It would also be pertinent to recall here the observations of the Full Bench in *S. K. Verma and others v. State of Punjab and others* (4), with regard to *ad hoc* employees, namely "To our mind, the term '*ad hoc*' employee is conveniently used for a wholly temporary employee engaged either for a particular purpose and one whose services can be terminated with the maximum of ease." It was consequently held, "In the gamut of service law an *ad hoc* employee virtually stands at the lowest rung. As against the permanent, quasi-permanent, and temporary employee, the *ad hoc* one appears at the lowest level implying that he had been engaged casually, or for a stop-gap arrangement for a short duration or fleeting purposes."

(7) Such thus now being the settled position in law, we are constrained to hold that the judgment of this Court in *Jagdish Singh's* case (*supra*) does not lay down correct law and is consequently, hereby over-ruled. It follows, therefore, that the petitioners are not entitled to the relief claimed.

(8) This writ petition is consequently hereby dismissed. In the circumstances, however, there will be no order as to costs.

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J.S.T.

(FULL BENCH)

Before M. R. Agnihotri, S. S. Grewal and Jawahar Lal Gupta, JJ.

JAGIR SINGH,—Petitioner.

versus

STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ Petition No. 2402 of 1984.

16th December, 1992.

Constitution of India, 1950—Arts. 226 and 227—Punjab Government Instructions dated 10th December, 1959—Departmental

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(4) A.I.R. 1979 Punjab and Haryana 149.

*inquiry—Proceedings—Inquiry report submitted on 28th July, 1972—Delinquent served with show-cause notice after 10 years on 27th July, 1982—Reply thereto submitted on 9th August, 1982—Proceedings not finalised till 1992—Liable to be quashed—Instructions of State Government necessitating expeditious finalization of departmental proceedings within a fixed period—Non-completion within that period—No right in law accrues to employee to approach the Court for enforcement of such instructions/guidelines—Unreasonable delay can, however, result in quashment of proceedings.*

*Held*, that when a departmental inquiry was initiated against the petitioner more than twenty years back, as the inquiry report itself was submitted on 28th July, 1972, it took full ten years for the State Government to serve the show-cause notice on the petitioner and even reply thereto was submitted by the petitioner on 9th August, 1982 and further ten years have passed and the matter has not been finalised so far, the departmental proceedings certainly deserve to be quashed. (Para 4)

*Held*, further, that it is no doubt correct and reasonable also, that departmental proceedings initiated against the employees should be finalised expeditiously. Expeditious disposal helps the employer as well as the employee as it removes uncertainty about the future career of the employees and lessens the financial burden in most of the cases where the employees are either placed under suspension or their promotions, etc. are deferred during the pendency of the inquiry. But, for how many months a particular departmental inquiry can be allowed to continue and after the expiry of how many months the approval of the Head of the Department/the Secretary to the Government/the Chief Secretary/the Minister Incharge or the Cabinet (Council of Ministers) has to be obtained or not, is purely for the employer to consider. In that process the delinquent employee cannot be associated nor does he have any say in the matter. If the State Government has issued certain guidelines for the guidance of the various departments or the disciplinary authorities to impress upon them the necessity of finalising the departmental proceedings expeditiously or even within a fixed period, it does not mean that after the expiry of that period, a right in law accrues to the employee to approach the Court of law for the enforcement of those guidelines. The employee may, in a fit case, approach the Court for the quashing of the proceedings, if the pendency of the inquiry has otherwise been protected and delayed to an unreasonable extent by the employer himself. (Para 3)

JAGIR SINGH V. STATE OF PUNJAB AND OTHERS, Civil Writ  
Petition No. 665 of 1977, decided on February 22, 1977, (Punjab &  
Haryana). (OVERRULED)

*Civil Writ Petition under Articles 226 and 227 of the Constitution of India praying that this Hon'ble Court may be pleased :—*

(a) to quash the enquiry proceedings pending against the petitioner ;

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- (b) to summon the record of the whole case for its kind perusal ;
- (c) to stay enquiry proceedings till the final decision of the present writ petition ;
- (d) to exempt the petitioner from serving the required notices upon the respondents as action is likely to be taken against the petitioner by the learned Collector, Patiala, and (e) that the costs of the writ petition may also be awarded to the petitioner.

(Case referred by the Hon'ble Mr. Justice Sukhdev Singh Kang and Hon'ble Mr. Justice D. V. Sehgal, on October 26, 1987, to a Larger Bench for deciding an important question of law involved in the case. The Larger Bench consisted of Hon'ble Mr. Justice M. R. Agnihotri, Hon'ble Mr. Justice S. S. Grewal, Hon'ble Mr. Justice, J. L. Gupta. The case was finally decided on dated 16th December, 1992).

Gur Rattan Pal Singh, Advocate, for the Petitioner.

G. K. Chatrath, Advocate General with S. K. Sharma, Deputy Advocate General, Punjab, Sushant Maini, Advocate, for the Respondents.

#### JUDGMENT

M. R. Agnihotri, J.

Petitioner Jagir Singh was working as Kanungo in the Punjab Revenue Department and was posted at Lalru, Tehsil Rajpura, District, Patiala, in the year 1970. He was appointed as a receiver in a dispute regarding agricultural land, the proceedings regarding which were pending before the Sub Divisional Officer (Civil), Rajpura. Due to certain irregularities regarding the functioning of the petitioner in that capacity, departmental proceedings were initiated against the petitioner and an inquiry officer was appointed who submitted his report on 28th July, 1972. However, the matter remained pending for a full decade and ultimately on 27th July, 1982, a show-cause notice was served on the petitioner to which he submitted his reply on 9th August, 1982. Even thereafter the matter remained pending for about two years and nothing was decided one way or the other. Ultimately, on 26th October, 1983, the petitioner submitted a representation to the authorities requesting for the dropping of proceedings pending against him since long, by placing reliance on the policy instructions of the State Government issued,— vide letter No. 12277-V(1)-59/13470, dated 10th December, 1959, from

the Secretary to Government, Punjab, Vigilance Department. The relevant extract from these instructions is reproduced below :—

“3. In this background, keeping in view practical considerations as far as possible, Government have taken the following decisions :—

- (i) The whole process of investigation and enquiry should be completed within six months excluding period of reference to the Public Service Commission and period where proceedings are stopped owing to a reference to court of law.
  - (ii) Extension of the period by another three months may be obtained under the order of the Minister-in-charge.
  - (iii) Any extension beyond nine months, i.e., period (i) and (ii) above is needed full facts and justification must be placed before the Cabinet and their approval taken.
4. I am to request that these instructions may be kept in the view by all concerned for strict observance.
5. This supersedes all the previous instructions on the subject.”

When no reply thereto was received by the petitioner, he approached this Court by way of the present writ petition for quashing of the departmental proceedings against him.

(2) In the meantime, in a similar case *Jagir Singh v. State of Punjab and others*, (1) a Division Bench of this Court considered the applicability and the justiciability of the aforesaid instructions by holding as under :—

“A grievance is made in the petition that as laid down in the policy decision dated December 10, 1959, taken by the State Government, the matter had to be referred to the Cabinet for getting its approval for continuing the enquiry against the petitioner beyond a period of 9 months. The facts are not disputed in the written statement. It is, however, averred therein that the ‘approval of appropriate authority for continuing suspension is being sought for in terms of administrative instructions.’ This implies that the enquiry is being continued against the petitioner and he is being kept under suspension without the approval of the competent authority. We accordingly allow

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(1) C.W.P. 665 of 1977, decided on 22nd February, 1977.

this petition and direct that the petitioner be reinstated to the post, paid arrears of salary and other emoluments of office and enquiry against him should not be continued unless and until the matter is placed before the Cabinet and is approved of by it in accordance with the policy decision mentioned above."

Therefore, when the writ petition filed by the present petitioner, Jagir Singh Kanungo, came up before the Motion Bench, it was admitted to D.B. Later on, when the Division Bench, heard the case on 26th October, 1987, the Bench was *prima facie* of the view that the aforesaid Division Bench decision (in CWP No. 665 of 1977) did not lay down the correct law and required re-consideration by a larger Bench. Hence, the case was referred to the Full Bench and is thus placed before us for consideration.

(3) After hearing the learned counsel for the parties, we are of the considered view that the aforesaid Division Bench judgment does not lay down the correct law. It is no doubt correct and reasonable also, that departmental proceedings initiated against the employees should be finalised expeditiously. Expenditious disposal helps the employer as well as the employees as it removes uncertainty about the future career of the employees and lessens the financial burden in most of the cases, where the employees are either placed under suspension or their promotions etc. are deferred during the pendency of the inquiry. But, for how many months a particular departmental inquiry, can be allowed to continue and after the expiry of how many months the approval of the Head of the Department/the Secretary to the Government/the Chief Secretary/the Minister Incharge, or the Cabinet (Council of Ministers) has to be obtained or not, is purely for the employer to consider. In that process the delinquent employee cannot be associated nor does he have any say in the matter. If the State Government has issued certain guidelines for the guidance of the various departments or the disciplinary authorities to impress upon them the necessity of finalising the departmental proceedings expeditiously or even within a fixed period, it does not mean that after the expiry of that period, a right in law accrues to the employee to approach the Court of law for the enforcement of those guidelines. The employee may, in a fit case, approach the Court for the quashing of the proceedings, if the pendency of the inquiry has otherwise been protracted and delayed to an unreasonable extent by the employer himself. Therefore, we cannot persuade ourselves to accept the view taken by the Division Bench in C.W.P. No. 665 of 1977 (supra), and with respect we have no option but to overrule the same.

(4) So far as the facts of the present case are concerned, the departmental proceedings certainly deserve to be quashed. A departmental inquiry was initiated against the petitioner more than twenty years back, as the inquiry report itself was submitted on 28th July, 1972. It took full ten years for the State Government to serve the showcause notice on the petitioner and even reply thereto was submitted by the petitioner on 9th August, 1982. Again ten years have passed and the matter has not been finalised so far. For arriving at our conclusion, we place reliance on the judgment of Hon'ble the Supreme Court in *the State of Madhya Pradesh v. Bari Singh and another*, (2), relevant para whereof is reproduced below:--

"4. The appeal against the order dated 16th December, 1987, has been filed on the ground that the Tribunal should not have quashed the proceedings merely on the ground of delay and laches and should have allowed the enquiry to go on to decide the matter on merits. We are unable to agree with this contention of the learned counsel. The irregularities which were the subject-matter of the enquiry is said to have taken place between the years 1975 — 1977. It is not the case of the department that they were not aware of the said irregularities, if any, and came to know it only in 1987. According to them even in April, 1977, there was doubt about the involvement of the officer in the said irregularities and the investigations were going on since then. If that is so, it is unreasonable to think that they would have taken more than 12 years to initiate the disciplinary proceedings as stated by the Tribunal. There is no satisfactory explanation for the inordinate delay in issuing the charge memo and we are also of the view that it will be unfair to permit the departmental inquiry to be proceeded with at this stage. In any case, there are no grounds to interfere with the Tribunal's orders and accordingly we dismiss this appeal."

(5) Resultantly, we allow this petition and quash the departmental proceedings pending against the petitioner. If the petitioner has since retired from service, he shall be entitled to his pension and other retiring benefits, in accordance with the rules, which shall be released to him within a period of three months.

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J.S.T.

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(2) AIR 1990, S.C. 1308.