(53) In the result, it is held that the order of the I.T.O. refusing registration to the firm on the ground that the firm was not a genuine one because a non-licensee was allowed to become a partner in the firm, is not assailable. The question is, therefore, answered in the negative i.e. in favour of the department and against the assessee.

S.C.K.

Before G.S. Singhvi & K.S. Kumaran, JJ

The State of Punjab,—*Appellant*

versus

Amar Singh,—*Respondent*

LPA No. 761 OF 1991

27th January, 1998

Constitution of India, 1950—Arts. 14 & 16—Reversion of ad hoc promotee—petitioner promoted as ad hoc General Manager in Punjab Roadways—After one year 5 months, petitioner reverted as Works Manager on the ground of pending enquiry and special confidential report—Learned Single Judge finding no action can be taken on seven year old charge-sheet and that confidential reports were available to Govt. when he was promoted on ad hoc basis-Reversion in face of retention of junior ad hoc General Managers is unjustified—Ambit and reach of Arts. 14 & 16 in the context of termination of temporary employee or reversion of ad hoc and officiating promotee—Legal position—Explained & enunciated.

Held that :

(i) Article 14 is the genus while Article 16 is the species. It gives effect to the doctrine of equality in all matters relating to public employment;

(ii) The wide sweep of Articles 14, 15 and 16 takes within its fold not only the legislative instruments and all executive/administrative actions of the State and its agencies/instrumentalities but also contractual matters;

(iii) Every State action must be informed by reasons. It must be fair, reasonable and in public interest and must be free from arbitrariness.

(iv) The basic requirement of Article 14 is fairness in State

action irrespective of the nature of power exercised by the State. The State cannot act arbitrarily by way of giving jobs or entering into contracts or issuing quota or licence. Its every action must be confined and structured by rational, relevant and non-discriminatory standard and if the government departments from such standards of norms, its action is liable to be struck down on the touch-stone of Article 14 of the Constitution;

(v) Articles 14 & 16 strike at arbitrariness in State action and ensure fairness and equality of treatment. They require that State action must be based on valid and relevant principles applicable alike to all similarly situate and it must not be guided by any extraneous or irrelevant considerations;

(vi) The ambit and reach of Articles 14 & 16 are not limited to cases where the public servant in fact has a right to a post. Even if a public servant is in an officiating position, he can complain of violation of Articles 14 & 16 if he has been arbitrarily or unfairly treated or subjected to *mala fide* exercise of power by the State machinery and it is no answer to the charge of infringement of articles 14 & 16 to say that the petitioner has no right to the post;

(vii) The government cannot justify its arbitrary action in matters involving public employment by relying upon the terms and conditions contained in the letter of appointment or the contract of service or service rules;

(viii) The decisions of the State and public authorities involving termination of services of permanent and temporary or officiating or *ad hoc* employees must satisfy the test of reasonableness. In other words, the termination of service even of a temporary employee must be made on valid reasons and such reasons must be disclosed to the Court as and when such action is challenged by the aggrieved person and it is no answer to the charge of arbitrariness, unfairness or discrimination that the action has been taken in accordance with the terms of employment:

(ix) The expression "matters relating to employment" used in Article 16(1) are not confined to the initial matters prior to the act of employment, but also comprehend all

matters after employment, which are incidental to the employment and form part of the terms and conditions of the employees, such as salary, increments, leave gratuity, pension, age of superannuation, promotion and even termination of employment;

(x) The termination of service of an employee without the existence of any cogent reasons would be arbitrary and against public policy;

(xi) The decision of the Full Bench in Y.K. Bhatia v. the State of Haryana & another, 1977(1) SLR 85 cannot be regarded as lying down correct law on the issue of applicability of Articles 14 & 16 in the matters involving termination of services of temporary employee or reversion of an *ad hoc* and officiating promotee in view of the law laid down by the Supreme Court in E.P. Royappa v. State of Tamil Nadu, AIR 1974 SC 555; The Manager, Government Branch Press V. D.B. Belliappa, AIR 1979 SC 429, Managing Director. U.P. Warehousing Corporation v. Vijay Narayan Vajpayee AIR 1980 SC 840; Sukhdev Singh v. Bhagatram Sardar Singh Raghuvanshi, AIR 1975 SC 1331; Central Inland Water Transport Corporation Limited v. Brojo Nath Ganguly, AIR 1986 SC 1571 and Delhi Transport Corporation v. D.T.C. Mazdoor Congress and others, AIR 1991 SC 101;

(xii) The judgment of the Division Bench in Krishan Chand Goyal v. Punjab State and another (1950-1988)(2) RSJ 199 is based on incorrect reading of the judgment of the Supreme Court in the Manager, Government Branch Press v. D.B. Belliappa, AIR 1979 SC 429, and first of the two propositions laid down by the Division Bench do not represent the correct law.

Shri S.K. Sharma, Sr. Deputy Advocate General, Punjab, *for the Appellant.*

None, *for the respondent.*

JUDGMENT

G.S. SINGHVI, J.

(1) The State of Punjab has come in appeal against the order dated 21st March, 1991 passed by the learned Single Judge

quashing the order of reversion of the respondent from the post of General Manager to that of Works Manager.

(2) The facts necessary for deciding the appeal are that the writ petitioner (respondent herein) who is a Scheduled Caste of Punjab, joined service as Works Manager in the Punjab Roadways w.e.f. 6th September, 1976. He was promoted as *ad hoc* General Manager,—*vide* order dated 14th May, 1977 issued by the Secretary, Department of Transport, Punjab. After one year and five months he was reverted to the post of Works Manager. The petitioner challenged the order of reversion by filing CWP No. 9411 of 1988. He averred that although in the final seniority list of Works Managers issued by the government in 1986, he was placed at No. 5 but Shri Jagir Singh, who was junior to him and who was shown at serial No. 6, was promoted as General Manager,—*vide* order dated 11th March, 1987 ignoring his seniority and this action of the respondent (appellant herein) amounted to violation of his fundamental right to equality. After about two months he too was promoted as *ad hoc* General Manager but without any rhyme or reason the government reverted him notwithstanding the availability of posts and notwithstanding the fact that person junior to him, namely, Shri B.S. Sohi, who was promoted as *ad hoc* General Manager on 31st August, 1987 was allowed to continue in that capacity. The petitioner further averred that he has been exonerated in the departmental enquiry initiated by the government, the period of his suspension has been regularised and the adverse remarks made on the basis of the departmental enquiry has also been expunged and as such his reversion should be declared arbitrary and unconstitutional.

(3) The respondent contested the writ petition by asserting that the case of the petitioner was considered at the time of his promotion but he was superseded on account of adverse remarks in the ACR of 1978-79 and pending enquiry which was initiated,—*vide* charge-sheet dated 2nd January, 1980. It also pleaded that the Secretary, Transport *suo motu* ordered promotion of the petitioner for a period of six months but by mistake the words "for six months" were not incorporated in the order of promotion. Subsequently, his case was considered in accordance with the policy instructions issued by the government,—*vide* circular No. 4/37/83/3PP/8708, dated 27th June, 1985 and he was reverted because of the pendency of enquiry and adverse special report. With regard to the promotion of Shri B.S. Sohi, it was pleaded that he has been promoted as Traffic Manager and the mere fact that he had been

posted as General Manager can not be made a ground for declaring the petitioner's reversion as arbitrary for unconstitutional.

(4) By way of an additional affidavit the petitioner asserted that S/Shri Gurcharan Singh and J.S. Malhi were also occupying the posts of General Manager and as such there were no occasion for the Government to revert him. He also stated that his ACRs for the years 1983-84 to 1987-88 were satisfactory and the average remarks conveyed for the year 1982-83 had been expunged,—*vide* Annexure-P.7. With regard to the charge-sheet dated 2nd January, 1980 he stated that no action had been taken during eight years and with regard to the allegation of purchase of aluminium body windows, he has submitted explanation on 7th October, 1988 and no action, thereafter, was taken by the respondent.

(5) After hearing the counsel for the parties, the learned Single Judge quashed the reversion of the petitioner. The relevant portion of the order of the learned Single Judge is extracted below:—

> "I have heard the learned counsel for the parties at length. Admitted case of the parties is that persons junior to the petitioner from amongst the scheduled caste as well as general category have been retained in service whereas petitioner has been reverted from the post of General Manager to that of Works Manager. Petitioner's case is fully covered by *Sughar Singh's* case and *Jarnail Singh's* case (supra). In *Sughar Singh's* case (supra) a permanent Head Constable in the U.P. Police Force was appointed as officiating Platoon Commander in the combined cadre of Sub-Inspector's, Armed Police and Platoon Commander. He was subsequently reverted to the substantive post of Head Constable in 1968 while persons junior to him were retained in service. Two questions arose namely, whether the order of reversion is attendant with any stigma and secondly, whether there has been any discrimination violating Articles 14 and 16 of the Constitution. It was held that so far as reversion is concerned, the order of reversion did not cast any stigma, nor it has any evil consequences as the respondent neither lost his seniority in the substantive rank nor there has been any forfeiture of his pay or allowances. On the second ground, it was held that the order was liable to be quashed on the ground of contravention of Articles 14 and 16 inasmuch as while

respondent had been reverted, his juniors were allowed to retain their present status as Sub Inspectors and they have not been reverted to the substantive post of Head Constable. It was also held that there was no administrative reason for this reversion, so the order of reversion was held to be bad."

Similarly in Jarnail Singh's case (supra) it was observed as under:—

"In the instant case, *ad hoc* services of the appellants have been arbitrarily terminated as no longer required while the respondents have retained other Surveyors who are juniors to the appellants. Therefore, on this ground also, the impugned order of termination of the services of the appellants are illegal and bad being in contravention of the fundamental rights guaranted under Articles 14 and 16 of the Constitution of India."

Though according to the reply filed by the respondents, the petitioner's reversion has been shown as a consequence to the involvement in embezzlement case, but nothing has been substantiated beyond slapping a charge-sheet and indicating nothing of the sort in the orders of reversion Annexure-P.9 to this effect.

In view of the above authoritative pronouncements order of reversion Annexure-P.9 is liable to be quashed on the ground of contravention of Articles 14 and 16 of the Constitution inasmuch as while the petitioner has been reverted his juniors were allowed to retain their status as General Manager."

(6) Shri S.K. Sharma assailed the order of the learned Single Judge by arguing that the government had reverted the respondent strictly in accordance with the terms and conditions incorporated in the promotion order and the learned single Judge has seriously erred in overlooking this important aspect of the case. He argued that the respondent did not acquire the right to hold the post of General Manager and, therefore, it was not necessary for the government to disclose reasons for his reversion. Shri Sharma further argued that the government had the absolute right to revert the petitioner because of the pendency of departmental enquiry

initiated,—*vide* memo dated 2nd January, 1980. He relied on the judgments of the Full Bench in *Y.K. Bhatia* v. *The State of Haryana and another,* (1) and of a Division Bench in *Krishan Chand Goyal* v. *Punjab State and another,* (2)

(7) We have thoughtfully considered the arguments of Shri Sharma and have perused the record of the case and, in our opinion, the appeal is liable to be dismissed being wholly meritless.

(8) Admittedly, persons junior to the respondent were allowed to continue as *ad hoc* General Managers when the respondent was reverted,—*vide* order dated 10th October, 1988. This action of the government may have been justified if some material had come into existence casting adverse reflection on the performance or conduct of the respondent in his capacity as General Manager. However, the fact of the matter is that no such material came into existence between 14th May, 1987 i.e. the date of his promotion and 10th October, 1988 i.e. the date on which he was reverted. The appellant had justified the reversion of the respondent by relying on the enquiry initiated,—*vide* memo dated 1st February, 1980 and the entries made in his annual confidential reports for the years 1978-79 and 1982-83. In our opinion, the learned Single Judge rightly held that these factors cannot be made basis for reverting the petitioner. The enquiry initiated,—vide memo dated 1st February, 1980 was more than seven years old when the respondent was promoted as *ad hoc* General Manager. Similarly, the average remarks made in the annual confidential reports were available to the government when it ordered the promotion of the respondent, to us,it appears that these factors were not considered significant by the competent authority at the time of respondent's promotion because of the long lapse of time. Therefore, after a year and five months those very factors could not have been used for passing the order of reversion.

(9) The other contention of Shri Sharma, namely, that the appellant could revert the respondent in view of the terms and conditions incorporated in the order dated 14th May, 1987 and the respondent cannot complain of the violation of Articles 14 and 16 of the Constitution also deserves to be rejected. No doubt, on the basis of his *ad hoc* promotion as General Manager, the respondent did not acquire the right to hold the post but his right to hold the

1. 1977 (1) SLR 85
2. (1950—1988) (2) RSJ 199

post is not of any significance in the context of his plea that the order of reversion was made in violation of the equality clause enshrined in Articles 14 and 16 of the Constitution. In *E.P. Royappa* v. *State of Tamil Nadu and another,* (3) a Constitution Bench of the Supreme Court considered the scope of Articles 14 and 16 and laid down the following principles:—

> "Art. 16 embodies the fundamental guarantee that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. Though enacted as a distinct and independent fundamental right because of its great importance as a principle ensuring equality of opportunity in public employment which is so vital to the building up of the new classless egalitarian society envisaged in the Constitution, Art. 16 is only an instance of the application of the concept of equality enshrined in Art. 14. In other world, Art. 14 is the genus while art. 16 is a species. Art. 16 gives effect to the doctrine of equality in all matters relating to public employment. The basic principle which, there informs both Arts. 14 and 16 is equality and inhibition against discrimination. Now, what is the content and reach of this great equalising principle? It is a founding faith, to use the words of Bose. J, "a way of life", and it must not be subjected to a narrow pedantic or lexicographic approach. We cannot countenance any attempt to truncate its all embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be "cribbed, cabined and confined" within traditional and doctrinaire limits. From a positivistic point of view, equality is antithetic to arbitrariness. *In fact equlity and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is, therefore, violative of Art. 14 and if it affects any matter relating to public employment it is also violative of Art. 16. Arts. 14 and 16 strike at arbitrariness in state action and ensure fairness and equality of treatment.*

3. 1974 (1) SLR 497

They require that State action must be based on valid relevant principles applicable alike to all similarly situate and it must not be guided by any extraneous or irrelevant considerations because that would be denial of equality. Where the operative reason for State action, as distinguished from motive inducing from the antechamber of the mind, is not legitimate and relevant but is extraneous and out side the area of permissible considerations, it would amount to mala fide exercise of power and that is hit by Arts. 14 and 16. Mala fide exercise of power and arbitrariness are different lethal radiations emanating from the same vice; in fact the latter comprehends the former. Both are inhibited by Arts. 14 and 16.

It is also necessary to point out that the ambit and reach of Arts. 14 and 16 are not limited to cases where the public servant affected has a right to a post. Even if a public servant is in an officiating position, he can complain of violation of Arts. 14 and 16 if he has been arbitrarily or unfairly treated or subjected to mala fide exercise of power by the State machine. It is, therefore, no answer to the charge of infringement of Arts. 14 and 16 to say that the petitioner had no right to the post of Chief Secretary but was merely officiating in that post. That might have some relevance to Art. 311 but not to Arts. 14 and 16."

(10) In *The Manager, Govt. Branch Press and another* v. *D.B. Belliappa,* (3) a three Judges Bench of the Supreme Court held that protection of Articles 14 and 16(1) is available even to a temporary government servant and if the action of the employer is found to be arbitrary of discriminatory, it is liable to be invalidated. While repelling the argument advanced on behalf of the appellant that Articles 14 and 16 do not have any relevance in the matters involving termination of services of temporary employees, their Lordships held as under:—

"Mr. Veerappa a first contention is that Articles 14 and 16(1) of the Constitution have no application, whatever, to the case of a temporary employee whose service is terminated in accordance with the terms and conditions

3. AIR 1979 SC 429

of his services because the tenure or the duration of the employment of such an employee is extremely precarious being dependent upon the pleasure and discretion of the employer-State. In our opinion, no such generalisation can be made. The protection of Articles 14 and 16(1) will be available even to such a temporary Government servant if he has been arbitrarily discriminated against and singled out for harsh treatment in preference to his juniors, similarly circumstanced. It is true that the competent authority had the discretion under the conditions of service governing the employee concerned to terminate the latter's employment without notice. But, such discretion has to be exercised in accordance with reason and fair play and not capriciously. Bereft of rationality and fairness, discretion degenerates into arbitrariness which is the very antithesis of the rule of law on which our democratic polity is founded. *Arbitrary invocation or enforcement of a service condition terminating the service of a temporary employee may itself constitute denial of equal protection and offend the equality clause in Arts. 14 and 16(1). Articles 16(1) guarantees "equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State". Moreover, according to the principle underlying S. 16 of the General Clauses Act, the expression appointment used in Art. 16(1) will include termination of or removal from service also."*

(11) Dealing with the case of *Union of India* v. *P.K. More,* (3), the Court observed:—

"In Union of India v. P.K. More (AIR 1962 SC 630) (supra), it was contended before this Court that Art. 16 provides that there shall be no inequality of treatment in the termination of the service of any employee of the Government. This interpretation of the Article was disputed by the Union of India, who was the appellant in that case. Although the Court thought it unnecessary to pronounce finally on this dispute for the purpose of that case, yet it proceeded on the assumption that Article 16 might be violated by an arbitrary and discriminatory termination of service. In that case, the respondent, P.K.

3. AIR 1962 SC 630

More, had been detained legally under a statute. In view of this fact, the Court held that the respondent might legitimately have been put in a separate class and treated differently from others not so detained."

(12) The Apex Court then proceeded to examine the case of the respondent and held as under:—

"In the instant case, no special circumstance or reason has been disclosed which would justify discriminatory treatment to Belliappa as a class apart from his juniors who have been retained in service. Mr. Veerappa's frantic efforts to spell out justification for differential treatment to the respondent by reference to the show-cause notice that preceded the impugned action, is entirely futile when the stand adhered to throughout by his client is that there is no nexus between the show-cause notice and the impugned action which was taken without any reason in exercise of the power vested in the competent authority under the conditions of the respondent's employment.

In view of this, we have no alternative, but to hold, that the termination of Belliappa's service was made arbitrarily and not on the ground of unsuitability or other reason, which would warrant discriminatory treatment to him as class apart from others in the same cadre.

In the view we take, we are further fortified by a decision of the Constitution Bench in Champak Lal's case (AIR 1964 SC 1854) (supra). That was a case of a temporary Government servant. Rule 5 governing a temporary servant, which came up for consideration in that case, gave power to the Government to terminate the service of a temporary Government servant by giving him one month's notice or on payment of one month's pay in lieu of notice. This rule was attacked on the ground that it was hit by Article 16. In the alternative it was urged that even if rule 5 is good, the order by which the appellant's services were dispensed with, was bad because it was discriminatory. Reference was made to a number of persons whose services were not dispensed with, even though they were junior to the appellant and did not have as good qualifications as he had. Wanchoo J. (as he then was), speaking for the Court, repelled the

alternative argument in these terms (at P. 1860).

"We are of the opinion that there is no force in this contention. This is not a case where services of a temporary employee are being retrenched because of the abolition of a post. In such a case, a question may arise as to who should be retrenched when one out of several temporary posts is being retrenched in an office. *In those circumstances, qualifications and length of service of those holding similar temporary posts may be relevant in considering whether the retrenchment of a particular employee was as a result of discrimination.* The present however is a case where the appellant's services were terminated *because his work was found to be unsatisfactory*.....(In such a case) there can, in our opinion, be no question of any discrimination. It would be absurd to say that if the service of one temporary servant is terminated on the ground of unsatisfactory conduct the services of all similar employees must also be terminated along with him, irrespective of what their conduct is. Therefore even though some of those mentioned in the plaint by the appellant were junior to him and did not have as good qualifications he had and were retained in service, it does not follow that the action taken against the appellant terminating his services was discriminatory, *for that action was taken on the basis of his unsatisfactory conduct.* A question of discrimination may arise in a case of retrenchment on account of abolition of one of several temporary posts of the same kind in one office but can in our opinion never arise in the case of dispensing with the services of a particular temporary employee *on account of his conduct being unsatisfactory*." (Parenthesis and emphasis supplied.)

The principle that can be deduced from the above analysis is that if the services of a temporary Government servant are terminated in accordance with the conditions of his service on the ground of unsatisfactory or for a like reason which marks him off a class apart from other temporary servants who have been retained in service, there is no question of the applicability of Art. 16.

Conversely, if the services of a temporary Government servant are terminated, arbitrarily, and not on the ground of his

unsuitability, unsatisfactory conduct or the likewhich would put him in a class apart from his juniors inthe same service, a question on unfair discrimination may arise, notwithstanding the fact that in terminating his service, the appointing authority was purporting to act in accordance with theterms of the employment. Where a charge of unfair discrmination is levelled with specificity, or improper motives are imputed to the authority making the inpugned order of termination of the service, it is the duty of the authority to dispel that charge by disclosing to the Court the reason or motive which impelled it to take the impugned action. Excepting, perhaps, in cases analogous to those covered by Art. 311(2), Proviso (*c*), the authority can not withhold such information from the Court on the lame excuse, that the impugned order is purely administrative and not judicial, having been passed in exercise of its administrative discretion under the rules governing the conditions of the service. "The giving of reasons", as Lord Denning put it in Breen v. Amalgamated Engineering Union (1971) 1 All ER 1148 "is one of the fundamentals of good administration" and, to recall the words of this Court in Khudi Ram v. State of West Bengal (1975) 2 SCR 832 at p.845: (AIR 1975 SC 550 p.558) in a Government of laws "there is nothing like unfettered discretion immune from judicial reviewability." *The executive, no less than the judiciary, is under a general duty to act fairly. Indeed, fairness founded on reason is the essence of the guarantee epitomised in Arts 14 & 16 (1).*"

(13) The Court also rejected the contention urged on behalf of the appellant that the termination of service of the respondent could be justified in view of the conditions contained in the letter of appointment which empowered the employer to dispense with his service without reasons and without notice and observed as under:—

"Another facet of Mr. Veerappa's contention is that the respondent had voluntarily entered into a contract of service on the terms of employment offered to him. One of the terms of that contract, embodies in the letter of his appointment is that his service was purely temporary and was liable to termination at the will and pleasure of

> *the appointing authority, without reason and without notice. Having willingly accepted the employment on terms offered to him, the respondent cannot complain against the impugned action taken in accordance with those mutually agreed terms. The argument is wholly misconceived.* It is borrowed from the archaic common law concept that employment was a matter between the master and servant only. In the first place, this rule in its original absolute form is not applicable to Government servants. Secondly, even with regard to private employment, much of it has passed into the fossils of time. "This rule held the field at the time when the master and servant were taken more literally than they are now and when, as in early Roman Law, the rights of the servant, like the rights of any other member of the house-hold, were not his own but those of his pater familias." The overtones of this ancient doctrine are discernible in the Anglo-American jurisprudence of the 18th century and the first half of the 20th century, which rationalised the employer's absolute right to discharge the employee. "Such a philosophy", as pointed out by K.K. Mathew, J. (*vide* his treatise: "Democracy, Equality and Freedom", page 326) "of the employer's dominion over his employee may have been in tune with the rustic simplicity of bygone days. But that philosophy is incompatible with these days of large, impersonal, corporate employers." *To bring it in tune with vastly changed and changing socio-economic conditions and mores of the day, much of this old, antiquated and unjust doctrine has been eroded by judicial decisions and legislation, particularly in its application to persons in public employment, to whom the constitutional protection of Arts. 14, 15, 16 and 311 is available. The argument is therefore overruled."*

(14) We have carefully perused the judgments of the Full Bench in Y.K. Bhatia's case (supra) and of the Division Bench in Krishan Chand Goyal's case (supra) relied upon by Shri S.K. Sharma. These decisions do support the proposition put forward by Shri Sharma that a temporary employee cannot complain of the violation of Articles 14 and 16 on the ground that his service has been terminated while retaining a junior person. They also support the proposition that an *ad hoc* or officiating promotee cannot

complain of the violation of the equality clause merely on the ground that while reverting him persons junior to him have been allowed to continue on the higher post. However, the principle laid down in Y.K. Bhatia's case (supra) cannot be treated as laying down as correct law because:—

(a) The Full Bench judgment has been rendered without taking note of the observations made by a Constitution Bench of the Supreme Court in *E.P. Royappa's* case (supra), which we have extracted above.

(b) The view taken by the Full Bench is contrary to the decision of the Supreme Court in *D.B. Belliappa's* case (supra) which has been rendered after considering the judgments of the Constitution Bench in *Union of India* v. *P.K. More* (supra) and *Champaklal Chimanlal Shah v. Union of India.* AIR 1964 SC 1854. In paras 4 and 5 of the judgment the Full Bench has referred to the observation made in *P.K. More's* case (supra) and *Union of India.* v. *Prem Parkash Midha,* 1969 SLR 655 suggesting that Articles 14 and 16 do not apply in the cases relating to termination of services. However, it ignored the Constitution Bench judgment in *General Manager, Southern Railway* v. *Rangachari,* AIR 1962 SC 36, in which the narrow construction of the expression "matters relating to employment" used in Article 16(1) of the Constitution has been rejected by the Apex Court in the following words.:—

"If the narrow construction of the expression "matters relating to employment" is accepted, it would make the fundamental right guaranteed by Art. 16(1) illusory. In that case it would be open to the State to comply with the formal requirements of Art. 16(1) by affording equality of opportunity to all citizens in the matter of initial employment and then to defeat its very aim and object by introducing discriminatory provisions in respect of employees soon after their employment. Would it, for instance, be open to the State to prescribe different scales of salary for the same or similar posts, different terms of leave of superannuation for the same or similar posts? On the narrow construction of Art. 16(1), even if such a

> discriminatory course is adopted by the State in respect of its employees that would not be violative of the equality of opportunity guaranteed by Art. 16(1). Such a result could not obviously have been intended by the Constitution. In this connection it may be relevant to remember that Art. 16(1) and (2) really given effect to the equality before law guaranteed by Art. 14 and to the prohibition of discrimination guaranteed by Art. 15(1). The three provisions form part of the same constitutional code of guarantees and supplement each other. If that be so, there would be no difficulty in holding that the matters relating to employment must include all matters in relation to employment both prior, and subsequent, to the employment which are incidental to, the employment and form part of the terms and conditions of such employment."

(15) The above observations of *Rangachari's case* (supra) have been relied upon by the three Judges Bench in *Belliappa's case* (supra) to hold that the expression "matters relating to employment" includes termination of employment as would appear from the following observations made in paras 18 and 19 of the decision, which are extracted below:—

> "Arbitrary invocation or enforcement of a service condition terminating the service of a temporary employee may itself constitute denial of equal protection and offend the equality clause in Arts. 14 and 16(1). Article 16(1) guarantees "equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State". Moreover, according to the principle underlying S. 16 of the General Clause Act, the expression 'appointment' used in Art. 16(1) will include termination of or removal from service, also.
>
> *It is now well settled that the expression "matters relating to employment" used in Art. 16(1) is not confined to initial matters prior to the act of employment, but comprehends all matters in relation to employment both prior, and subsequent, to the employment which are incidental to the employment and form part of the terms and conditions of such employment, such as, provisions as to*

salary, increments, leave, gratuity, pension age of superannuation, promotion and even termination of employment. It is further well established that Arts. 14, 15(1) and 16(1) form part of the same constitutional code of guarantees and supplement each other. If any authority is needed for the above enunciation, reference may be made to the observations made by Gajendragadkar, J., as he then was, in *General Manager, Southern Railway* v. *Rangachari,* (AIR 1962 SC 36) (supra)."

(16) It is interesting to note that O Chinnappa Reddy, J., as he then was, who authored the judgment of the Full Bench in *Y.K. Bhatia's* case (supra) was also a member of the two Judges bench of the Supreme Court in *Sengara Singh and others* v. *The State of Punjab and others,* (3A), in which the dismissal of police personnel was set aside on the ground of violation of Article 14 of the Constitution. The relevant portion of the Judgment in *Sengara Singh's* case (supra) reads as under:—

"Now if the indiscipline of a large number of personnel amongst dismissed personnel could be condoned or overlooked and after withdrawing the criminal cases against them, they could be reinstated, we see no justification in treating the present appellants differently without pointing out how they were guilty of more serious misconduct or the degree of indiscipline in their case was higher than compared to those who were reinstated. Respondents failed to explain to the Court the distinguishing features and, therefore, we are satisfied in putting all of them in same bracket. On that conclusion the treatment meted to the present appellants suffers from the vice of arbitrariness and Art. 14 forbids any arbitrary action which would tantamount to denial of equality as guaranteed by Art. 14 of the Constitution. The Court must accordingly interpose and quash the discriminatory action."

(17) In *The Managing Director, U.P. Warehousing Corporation and others* v. *Vijay Narayan Vajpayee.* (4) which was a case of dismissal from service, O. Chinnappa Reddy, J., in his concurring opinion expressed the view that the rights available to civil servants

3A. A.I.R. 1984 SC 1499
4. A.I.R. 1980 SC 840

under Articles 14 and 16 should be extended to the employees of public sector corporation and governmental agencies and observed:—

> "There is no good reason why, if Government is bound to observe the equality clauses of the Constitution in the matters of employment and in its dealings with the employees, the Corporations set up or owned by the Government should not be equally bound and why, instead, such Corporations could become citadels of patronage and arbitrary action. In a country like ours which teems with population, where the State, its agencies,its instrumentalities and its Corporations are the biggest employers and where millions seek employment and security, to confine the applicability of the equality clauses of the Constitution, in relation to matters of employment, strictly to direct employment under the Government is perhaps to mock at the Constitution and the people. Some element of public employment is all that is necessary to take the employee beyond the reach of the rule which denies him access to a Court to enforce a contract of employment and denies him the protection of Arts. 14 and 16 of the Constitution."

(18) The wide reach of Articles 14 and 16 has been invoked to invalidate the termination of the service of the employees in a large number of cases including the often quoted decisions of *Sukhdev Singh* v. *Bhagatram Sardar Singh Raghuvanshi,* (4A) (Constituion Bench); *Central Inland Water Transport Corporation limited and another* v. *Brojo Nath Ganguly and another,* (5) *Delhi Transport Corporation* v. *D.T.C. Mazdoor Congress and others* (6) (Constitution Bench). In *Jarnail Singh and others v. State of Punjab and others* (7) two Judges Bench of the Supreme Court relied on various precedents including the judgment in *D.B. Belliappa's* case (supra) and held that the termination of the services of a senior person while retaining the junior amounted to violation of Articles 14 and 16 of the Constitution.

4A. A.I.R. 1975 S.C. 1331
5. A.I.R. 1986 S.C. 1571
6. A.I.R. 1991 S.C. 181
7. 1986(2) S.L.R. 278

(19) No doubt, some of the decisions referred to above relate to permanent employees but the ratio of the law laid down in all these decisions is that if the action of a public employer to terminate the services is found to be arbitrary then it is liable to be invalidated on the ground of violation of Articles 14 and 16 of the Constitution. Thus, it must be treated as a settled proposition of law that Articles 14 and 16 can be invoked by an employee to challenge the termination of his services and the judgment of the Full Bench will have to be read subject to the law laid down by the Apex Court.

(20) (c) That apart, in *Y.K. Bhatia's* case (supra), the Full Bench has itself held that is will be open to person affected in the individual cases to establish discriminatory treatment which cannot be explained except on the basis of malice in law of malice in fact.

(21) The expression of malice in law has been judicially interpreted in *Shearer* v. *Shields,* (8A) in the following words:—

> " A person who inflicted an injury upon another person in contravention of the law is not allowed to say that he did so with an innocent mind; he is taken to know the law, and he must act within the law. He may, therefore, be guilty of malice in law, although, so far the state of his mind is concerned, he acts ignorantly, and in that sense innocently."

(22) This proposition has been adopted in *Smt. S.R. Venkataraman* v. *Union of India and another,* (8). After quoting the English case their Lordships observed:—

> "Thus malice in its legal sense means malice such as may be assumed from the doing of a wrongful act intentionally but without just cause or excuse, or for want of reasonable or probable cause, Thus an act which lacks *bona fides* or which is unjust or arbitrary can also be declared as vitiated by malice in law."

(23) In *Krishan Chand Goyal's* case (supra), the Division Bench made reference to the decision of the Full Bench in *Y.K. Bhatia's* case (supra) as well as the judgments of the Supreme Court in *P.K. More's* case (supra) and *D.B. Belliappa's* case (supra). After noticing some facts from the judgment of *D.B. Belliappa's* case (supra), the Division Bench observed:—

8. A.I.R. 1979 S.C. 49

8A. 1914 Appeal cases 808

"On these peculiar facts, a Bench of three Judges drew a distinction as compared to earlier decided cases and did not lay down any rule as a matter of law that the service of a temporary servant cannot be dispensed with in accordance with the terms and conditions of employment or the service rule. Even in this judgment, the earlier view was reiterated that the service of a temporary Government servant can be terminated on the ground of his unsuitability, unsatisfactory conduct or the like, which would put him in a class apart from his juniors in the same service, which would be clear from the following passage of the judgment:—

"The principle that can be deduced from the above analysis is that if the services of a temporary Government servant are terminated in accordance with the conditions of his service on the ground of unsatisfactory conduct or his unsuitability for the job and/or his work being unsatisfactory or for a like reason which marks him off in a class apart from other temporary servants who have been retained in service there is no question of the applicability of Art. 16."

(24) After reiterating the aforesaid law, which was earlier laid down, the Bench proceeded to examine a case where the service of a temporary Government Servant is terminated arbitrarily by pleading facts in a given case and in that situation a question of unfair discrimination may arise notwithstanding the fact that in terminating his service, the appointing authority was purporting to act in accordance with the terms of employment. Then it was stated that where a charge of unfair discrmination is levelled with specificity, or improper motives are imputed against the order of termination of service, it is the duty of the authority to dispel that charge by disclosing to the Court the reasons or motive which impelled it to take the impugned action, and if in a given case arbitrariness of the order or improper motive in terminating the service is made out then in those circumstances only the simple order of termination may amount to violation of Article 14 and 16 of the Constitution as the juniors were retained and he was discriminated against for those reasons. Therefore, D.B. Belliappa's case is a decision on its own facts and no general rule was laid down which was different from the earlier decision of the Supreme Court which were followed in the Full Bench decision of this Court."

(25) The Division Bench then proceeded to lay down the following propositions:—

"(i) The fact that the service of a temporary Government servant is terminated either in accordance with the conditions of appointment or service rules, while his juniors are retained in service *per se* would not prove unequal treatment nor would it be violative of Articles 14 and 16 of the Constitution.

(ii) If in a given case the temporary Government Servant is able to show that the simple order of termination of service in accordance with the terms of appointment or service rules was actuated by improper motives or on charge of unfair discrimination specifying the facts in that regard and those facts are either not controverted or stand proved, then that simple order of termination of service may be quashed by a Court of law even if he was the junior most."

(26) We have carefully perused the judgment in *Krishan Chand Goyal's* case (supra) and are of the opinion that the observations made by the Division Bench with regard to the ratio of the judgment in *D.B. Belliappa's* case (supra) is based on in incomplete reading of that decision. In para 25 of the Supreme Court's judgment, the argument that the termination of service of a temporary employee in accordance with the conditions of appointment cannot be quashed on the ground of violation of Article 16, has been unequivocally rejected. In paragraphs 18 and 19 of *D.B. Belliappa's* case, it has also been held that the termination of service of a temporary employee without any reason or rhyme can attract Articles 14 and 16 of the Constitution. It also appears to us that the attention of the Division Bench was not drawn to the exposition of law made by the Constitution Bench in *E.P. Royappa's* case (supra). Therefore, the observations made by the Division Bench with reference to the judgment of the Supreme Court in *D.B. Belliappa's* case (supra) cannot be treated as correct and first of the propositions formulated by it cannot be held as laying down correct law.

(27) The issue deserves to be examined from another angle. The preamble of the Constitution of India resolves to secure to all its citizens Justice, social economic and political; and Equality of status and opportunity. Every State action must be aimed at achieving this goal. Part IV of the Constitution contains Directive

Principles of State Policy which are fundamental in the Governance of the country and are aimed at securing social and economic freedoms by appropriate State action which is complementary to individual fundamental rights guaranteed in Part III for protection against excesses of State action, to realise the vision in the preamble. This being the philosophy of the Constitution, can it be said that is contemplates exclusion of Art. 14—non-arbitrariness which is basic to rule of law. In *V. Punnah Thomas v. State of Kerala,* (8A), K.K. Mathew, J., as he then was, held that the government, is not and should not be free as an individual in selecting the recipients for its largess. Whatever its activity, the Government is still the Government and will be subject to restraints, inherent in its position in a democratic society. A democratic Government cannot lay down arbitrary and caparicious standards for the choice of persons with whom alone it will deal.

(28) The same point was made by the Supreme Court in *Erusian Equipment and Chemicals Ltd.* v. *State of West Bengal,* (9), where the question was whether black-listing of a person without giving him an opportunity to be heard was bad? Ray, C.J., speaking on behalf of himself and his colleagues on the Bench pointed out that black-listing of a person not only affects his reputation which is in poundian terms an interest both of personality and substance, but also denies him equality in the matter of entering into contract with the Government and it cannot, therefore, be supported without fair hearing. It was argued for the Government that no person has a right to enter into contractual relationship with the Government and the Government, like any other private individual, has the absolute right to enter into contract with any one it pleases. But the Court, speaking through the learned Chief Justice, responded that the Government is not like a private individual who can pick and choose the person with whom it will deal, but the Government is still a Government when it enters into contract or when it is administering largess and it cannot, without adequate reasons, exclude any person from dealing with it or take away largess arbitrarily. The learned Chief Justice said that when the Government is trading with the public, "the democratic form of Government demands equility and absence of arbitrariness and discrimination in such transactions.......The activities of the Government have a public element and, therefore, there should be fairness and equality. The State need no enter into

8.A A.I.R. 1969 Kerala 81

9. A.I.R. 1975 S.C. 266

any contract with anyone, but if it does so, it must do so fairly without discrimination and without unfair procedure."

(29) In *Ramana Dayaram Shetty* v. *The International Airport Authority of India and others,* (10) their Lordships referred to the propositions laid down in the aforementioned two decisions and held as under:—

> "It must, therefore, be taken to be the law that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or granting other forms of largess, the Government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person it pleases, but its action must be in conformity with standard or norm which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largess including award of jobs, contracts quotas, licences etc., must be confined and structured by rational., relevant and non-discriminatory standard or norm and if the government departs from such standard or norm in any particular case or cases, the action of the Government would be liable to be struck down,unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational unreasnable or discriminatory."

(30) In the same decision the Supreme Court further held:—

> "This rule also flows directly from the doctrine of equality embodies in Art. 14. It is now well settled as a result of the decisions of this Court in *E.P. Royappa* v. *State of Tamil Nadu,* AIR 1974 SC 555 and *Maneka Gandhi* v. *Union of India,* AIR 1978 SC 597 that Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. It requires that State action must not be arbitrary but must be based on some rational and relevant principle which is non-discriminatory: it must not be guided by any extraneous or irrelevant consideration, because that would be denial of equality. The principle of reasonableness and rationality which is legally as well as philosophically an essential element

10. A.I.R. 1979 S.C. 1628

of equality or non-arbitrariness is projected by Article 14 and it must characterise every State action, whether it be under authority of law or in exercise of executive power without making of law. The State cannot, therefore, act arbitrarily in entering into relationship, contractualor otherwise with a third party, but its action must conform to some standard or norm which is rational and non-discriminatory."

(31) In *Dwarkadas Marfatia and Sons* v. *Board of Trustees of the Port of Bombay,* (11), the matter was re-examined in relation to an instrumentality of the State for applicability of Art. 14 to all its actions. Referring to the earlier decisions of this Court and examining the argument for applicability of Article 14, even in contractual matters, Sabyasachi Mukharji, J. (as the learned Chief Justice then was), speaking for himself and Kania, J., reiterated that every action of the State or an instrumentality of the State must be informed by reason.....actions uniformed by reason may be questioned as arbitrary in proceedings under Article 226 or Article 32 of the Constitution.

(32) In *Kumari Shrilekha Vidyarthi etc.* v. *State of U.P. and others,* (12), a two Judges bench of the Supreme Court made an extensive and indepth analysis of the scope of equality clause and laid down the following propositions:—

"It can no longer be doubted at this point of time that Art. 14 of the constitution of India applies also to matters of governmental policy and if the policy or any action of the Government, even in contractual matters, fails to satisfy the test of reasonableness, it would be unconstitutional. (See Ramana Dayaram Shety v. The International Airport Authority of India, AIR 1979 SC 1628 and Kasturi Lal Lakshmi Reddy v. State of Jammu and Kashmir, AIR 1980 SC 1992. In Col. A.S. Sangwan v. Union of India, AIR 1981 SC 1545, while the discretion to change the policy in exercise of the executive power, when not trammelled by the statute or rule, was held to be wide, it was emphasised as imperative and implicit in Art. 14 of the Constitution that a change in policy must be made fairly and should not give the impression

11. A.I.R. 1989 S.C. 1642
12. A.I.R. 1991 S.C. 537

that it was so done arbitrarily or by any ulterior criteria. The wide sweep of Art. 14 and the requirement of every State action qualifying for its validity on this touchstone, irrespective of the field or activity of the State, has long been settled. Later decisions of this Court have reinforced the foundation of this tenet and it would be sufficient to refer only to two recent decisions of this Court for this purpose.

It is now too well settled that every State action, in order to survive, must not be susceptible to the vice of arbitrariness which is the crux of Art. 14 of the Constitution and basic to the rule of law, the system which governs us. Arbitrariness is the very negation of the rule of law. Satisfaction of this basic test in every State action is *sine qua* non to its validity and in this respect, the State cannot claim comparison with a private individual even in the field of contract."

(33) The meaning and true import of arbitrariness is more easily visualized than precisely stated or defined. The question, whether an impugned act is arbitrary or not, is ultimately to be answered on the facts and in the cirucmstances of a given case. An obvious test to apply is to see whether there is any discernible principle emerging from the impugned act and if so, does it satisfy the test of reasonableness. Where a mode is prescribed for doing an act and there is no impediment in following that procedure, performance of the act otherwise and in a manner which does not disclose any discernible principle which is reasonable, may itself attract the vice of arbitrariness. Every State action must be informed by reason and it follows that an act uniformed by reason, is arbitrary. Rule of law contemplates governance by laws and not by humour, whims or caprices of the men to whom the governance is entrusted for the time being. It is trite that be you ever so high, the laws are above you.

(34) in *S.G. Jaisinghani* v. *Union of India* (13) at p. 1434 in the court indicated the test of arbitrariness and the pitfalls to be avoided in all State actions to prevent that vice, in a passage as under:—

"In this context it is important to emphasize that the absence of arbitrary power is the first essential of the rule of

13. A.I.R. 1967 S.C. 1427

law upon which our whole constitutional system is based. In a system governed by rule of law, discretion,when conferred upon executive authorities, must be confined within clearly defined limits. The rule of law from this point of view means that decisions should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule it is unpredictable and such a decisionis the antithesis of a decision taken in accordance with the rule of law. (See Dicey—"Law of the Constitution"—Tenth Edn., Introduction ox). "Law has reached its finest moments", stated Douglas, J. in *United States* v. *Wunderlick* (1951-342 US 98: 96 Law Ed 113), "When it has freed man from the unlimited discretion of some ruler............ Where discretion is absolute, man has always suffered". It is in this sense that the rule of law may be said to be the sworn enemy of caprice. Discretion, as Lord Mansfield stated it in classic terms in the case of John Wilkes (1770-98 ER 327), "means sound discretion guided by law.

It must be governed by rule, not humour: it must not be arbitrary, vague and fanciful."

(35) In *Liberty Oil Mills* v. *Union of India* (14) the Supreme Court held that the expression 'without assiging any reason' implied that the decision has to be stated; but the reason must exist, otherswise the decision would be arbitrary. This decision was relied upon in *Shrilekha Vidyarathi's* case (supra) to reject the argument made on behalf of the State of Uttar Pradesh that in term of clause 3 of para 7.06 the services of the Government Pleaders could be terminated at any time without assigning any cause as would appear from the following extract of the decision of the Apex Court:—

"The other part of clause 3 which enables the Government to terminate the appointment at any time without assigning any cause means without communicating any cause to the appointee whose appointment is terminated. However, without assigning any cause is not to be

14. A.I.R. 1984 S.C. 1271

equated with without *existence* of any cause. It merely means that the reason for which the termination is made need not to be assigned or communicated to the appointee. It was held in *Liberty Oil Mills* v. *Union of India*, AIR 1984 SC 1271 that the expression without assigning any reason implies that the decision has to be communicated, but reasons for the decision have not to be stated; but the reason must exist, otherwise, the decision would be arbitrary. *The non-assigning of reasons or the non-communication thereof may be based on public policy, but termination of an appointment without the existence of any cogent reason in furtherance of the object for which the power is given would be arbitrary and, therefore, against public policy.* Clause 3 of para 7.06 must, therefore, be understood to mean that the appointment of a District Government Counsel is not to be equated with appointment to a post under the Government in the strict sense, which does not necessarily mean that it results in denuding the office of its public character; and that the appointment may be terminated even during currency of the term be only communicating the decision of termination without communicating the reasons which led to the termination. It does not mean that the appointment is at the sweet will of the Government which can be terminated at any time, even without the existence of any cogent reason during the subsistence of the term.. In our opinion, the wise sweep of Art. 14 undoubtedly takes within its fold the impugned circular issued by the State of U.P. in exercise of its executive power, irrespective of the precise nature of appointment of the Government counsel in the districts and the other rights, contractual or statutory, which the appointees may have. It is for this reason that we base our decision on the ground that independent of any statutory right, available to the appointees, and assuming for the purpose of this case that the rights flow only from the contract of

appointment, the impugned circular, issued in exercise of the executive power of the State, must satisfy Art. 14 of the Constitution and if it is shown to be arbitrary, it must be struck down."

(36) In *Dwarkadas Marfatia's* case (supra), Sabyasachi Mukharji, J. (as he then was), indicated the extent of the power of judicial review by observing as under:—

".....Where there is arbitrariness in State action, Art. 14 springs in and judicial review strikes such an action down. Every action of the executive authority must be subject to rule of law and must be informed by reason. *So, whatever be the activity of the public authority, it should meet the test of Art.14..............."*

(37) The propositions of law which emerge from the above discussion are:—

(i) Article 14 is the genus while Article 16 is the species. It gives effect to the doctrine of equality in all matters relating to public employment.

(ii) The wide sweep of Articles 14, 15 and 16 takes within its fold not only the legislative instruments and all executive/administrative actions of the State and its agencies/instrumentalities but also contractual matters.

(iii) Every State action must be informed by reasons. It must be fair, reasonable and in public interest and must be free from arbitrariness.

(iv) The basic requirement of Article 14 is fairness in State action irrespective of the nature of power exercised by the State. The State cannot act arbitrarily by way of giving jobs or entering into contracts or issuing quota or licence. Its every action must be confined and structured by rational, relevant and non-discriminatory standard and if the government departs from such standards or norms, its action is liable to be stuck down on the touch-stone of Article 14 of the Constitution.

(v) Articles 14 and 16 strike at arbitrariness in State action and ensure fairness and equality of treatment. They

require that State action must be based on valid and relevant principles applicable alike to all similarly situate and it must not be guided by any extraneous or irrelevant considerations.

(vi) The ambit and reach of Articles 14 and 16 are not limited to cases where the public servant in fact has a right to a post. Even if a public servant is in an officiating position, he can complain of violation of Articles 14 and 16 if he has been arbitrarily or unfairly treated or subjected to *mala fide* exercise of power by the State machinery and it is no answer to the charge of infringement of Articles 14 and 16 to say that the petitioner has no right to the post.

(vii) The government cannot justify its arbitrary action in matters involving public employment by relying upon the terms and conditions contained in the letter of appointment or the contract of service or service rules.

(viii) The decision of the State and public authorities involving termination of services of permanent and temporary or officiating or *ad hoc* employees must satisfy the test of reasonableness. In other words the termination of service even of a temporary employee must be made on valid reasons and such reasons must be disclosed to the Court as and when such action is challenged by the aggrieved person and it is no answer to the charge of arbitrariness, unfairness or discrimination that the action has been taken in acordance with the terms of employment.

(ix) The expression "matters relating to employment" used in Article 16(1) are not confined to the initial matters prior to the act of employment, but also comprehend all matters after employment, which are incidental to the employment and form part of the terms and conditions of the employees, such as salary, increments, leave, gratuity, pension, age of superannuation, promotion and even termiantion of employment.

(x) The termination of service of an employee without the

existence of any cogent reason would be arbitrary and against public policy.

(xi) The decision of the Full Bench in *Y.K. Bhatia's* case (supra) cannot be regarded as laying down correct law onthe issue of applicability of Articles 14 and 16 in the matters involving termination of services of temporary employee or reversion of an *ad hoc* and officiating promotee in view of the law laid down by the Supreme Court in *E.P. Royappa* v. *State of Tamil Nadu* (15), *The Manager, Government Press* v. *D.B. Belliappa* (16), *Managing Director, U.P. Warehousing Corporation* v. *Vijay Narayan Vajpayee,* (17) *Sukhdev Singh* v. *Bhagatram Sardar Singh Raghuvanshi* (18); *Central Inland Water Transport Corporation Limited* v. *Brojo Nath Ganguly* (19) and *Delhi Transport Corporation* v. *D.T.C. Mazdoor Congress and others* (20).

(xii) The judgment of the Division Bench in *Krishan Chand Goyal* v. *Punjab State (supra)* is based on incoorect reading of thejudgement of the Supreme Court in *The Manager, Government Branch Press* v. *D.B. Belliapa* (supra) and first of the two propositions laid down by the Division Bench do not represent the correct law.

(38) Applying the above mentioned principles to the facts of this case, we hold that the reversion of the respondent brought about without any cogent reason has rightly been quashed by the learned Single Judge.

(39) Hence, the appeal is dismissed.

R.N.R.

15. A.I.R. 1974 S.C. 555
16. A.I.R. 1979 S.C. 429
17. A.I.R. 1980 S.C. 840
18. A.I.R. 1975 S.C. 1331
19 A.I.R. 1986 S.C. 1571
20. A.I.R. 1991 S.C. 101