

para No. 17 of the judgment that this part of the judgment would have prospective application and no punishment shall be open to challenge on this ground. Admittedly, the punishment was imposed in this case long before the judgment aforesaid was rendered and as such on this particular score the petitioner cannot succeed.

(6) Mr. Nehra learned counsel for the P.G.I. has urged that even if the petition be allowed, the management should be permitted to hold a fresh enquiry against the petitioner and as he has lost confidence of the management, he should not in any case be reinstated in service. In support of his contention he has relied upon Bhagat Ram's case supra. I think this argument is also of no avail. The petitioner is admittedly a Class IV employee belonging to the poorest sections of the Society. He has undergone the agony of a domestic enquiry, proceedings before the Labour Court and also now before this Court for more than five years and as such has been adequately punished for what he may or may not have done. In this view of the matter, it would be inappropriate to remand the case for fresh enquiry or to deny the petitioner the benefit of reinstatement in service.

(6) For the reasons recorded above, the petition is allowed. Annexure P-8 is quashed with no order as to costs. The petitioner is directed to be reinstated in service with full back wages and with continuity in service. He shall be put back in service forthwith and given his arrears etc. within a period of two months of the receipt of a copy of this order, by the respondents.

R.N.R.

Before Hon'ble K. P. Bhandari & Amarjeet Chaudhary, JJ.

M. L. PURI, ADVOCATE,—Petitioner.

versus

THE PUNJAB AND HARYANA HIGH COURT, THROUGH ITS
REGISTRAR AND OTHERS,—Respondents.
Civil Writ Petition No. 2019 of 1993

March 24, 1993

Constitution of India, 1950—Art. 226/227—High Court Judges (Condition of Service) Act 1954—Section 22B—Public Interest Litigation—Staff cars placed at disposal of High Court Judges not of adequate standard—Old cars to be replaced.

Held, that we are of the view that respondents are bound to provide staff cars to the Judges and they must be changed after the car has done 80,000 kms or is five years old. The cars require expensive repairs. There is no justification in delaying the replacement of the cars placed at the disposal of the Judges of the High Court which have already done 80,000 kms or are more than five years old.

(Para 17)

Held, that in view of the above discussion, this writ petition is allowed and a writ of *mandamus* is issued directing respondent to immediately purchase and replace seven cars. We further direct that respondents would replace the cars which have already done 80,000 kms. or are more than five years old, whichever is earlier, without further delay.

(Para 19)

Petitioner in person.

R. L. Sharma, D.A.G. Haryana, *for the Respondent*.

A. K. Bhardwaj, Dy. Secretary (Home), *for Respondent No. 3*.

None, *for Respondent No. 2*.

JUDGMENT

K. P. Bhandari, J.

(1) Mr. M. L. Puri, practising Advocate of Punjab and Haryana High Court has filed the present petition under Article 226 of the Constitution of India. The petitioner has filed the present petition in public interest litigation. He has averred in the writ petition that Judges of the High Court are entitled to staff cars according to Section 22-B of the High Court Judges (Conditions of Service) Act, 1954, as amended (for short the 'Act'). He has averred in the writ petition that staff cars placed at the disposal of the Judges of the High Court are old and are not dependable. The cars require replacement. The stand of the petitioner is that in discharge of the judicial functions, the High Court Judges are required to undertake journeys to far off places within the States of Punjab and Haryana. They are also to visit the state headquarters for presiding over the Lok Adalats. He has also averred that the staff cars placed at the disposal of the High Court Judges are not of adequate standard. Sometimes the cars are stranded on the road. He has further averred that the cars placed at the disposal of the High Court Judges should be of the same standard as are placed at the disposal of the Ministers of the State. He has also averred that the cars placed at the disposal of most of Judges needs replacement. It is also the stand of the petitioner in the writ petition that the security arrangement for the Judges of the High Court is not adequate.

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(2) Notice of the writ petition was issued to respondent Nos. 1 to 3. In reply to the notice, Registrar of the Punjab and Haryana High Court, Chandigarh has filed written statement on behalf of respondent No. 1. Written statement has also been filed on behalf of respondent No. 3. Union of India, respondent No. 2, has not put in appearance inspite of service of notice.

(3) Registrar of the Punjab and Haryana High Court in the written statement has stated that most of the cars provided to the High Court Judges are of 1987 model. As a result of constant use of these cars they have become unserviceable and have to be sent to the work-shop time and again for necessary repairs thereby causing a lot of inconvenience to the Judges. The Registrar has averred in the written statement that the matter regarding replacement of staff cars was referred to S. S. Sodhi, J. for examination and report. S. S. Sodhi, J. submitted his report. It was recommended in the report by S. S. Sodhi, J. that the High Court Judges should be treated at par with the Ministers of the two states of Punjab and Haryana. It was further recommended in the report that staff cars of the High Court Judges should be replaced after 80,000 kms. or 2/3 years whichever is earlier. These recommendations were adopted by the High Court in the Full Court Meeting. As a result of the decision of the Full Court, the Central Government as well as the Chandigarh Administration was moved for replacement of 18 staff cars,—vide letter dated 1st February, 1991. A condemnation board was constituted by the Chandigarh Administration, comprising of technical and mechanical members. The board inspected these cars on the spot and suggested pre-mature condemnation of only 7 cars, even though all the 18 cars had already covered more than 80,000 kms. each. The Government of India as well as the Union Territory, Chandigarh was moved to convey the sanction of the replacement of the cars. Full information was given to the Government about the total mileage covered by the each car and total up-to-date expenditure incurred on each car. Anticipated cost of replacement of these cars was duly furnished to the Government of India,—vide letter dated 20th October, 1992, for conveying its sanction but so far the Government of India has not given the sanction. It is also the stand in the written statement that recommendations made by the Full Court are in consonance with the spirit of the provisions of the law.

(4) Union Territory, Administration, respondent No. 3 has filed written statement. In the written statement a preliminary objection has been raised that the petitioner has no locus-standi to file the

present petition because he is neither an aggrieved party nor an interested person and hence he cannot invoke the extraordinary writ jurisdiction of this Court. A preliminary objection has also been raised that the present petition is not in public interest litigation. A preliminary objection has also been raised that the States of Punjab and Haryana should also be made parties because ultimately the expenditure on the replacement of the cars is to be shared by the States of Punjab and Haryana as well. In the written statement, it is averred that every Judge of the High Court has been provided with a staff car and the cars provided are being maintained according to the Staff Car Rules. It is admitted that according to Section 22-B of the Act a High Court Judge is entitled to a staff car and one hundred and fifty litres of petrol every month or the actual consumption of petrol per month, whichever is less. It is averred in the written statement that normally sanction for condemnation is given when a car has completed 8 years or 1,50,000 kms. whichever is reached later. However, on the request of the High Court sanction of the Government of India was sought for pre-mature condemnation under Rule 43(II) of the Rules, which is awaited.

(5) Considering the averments made in the writ petition, the present petition is clearly in public interested in the matter. He is practising Advocate of the High Court. He has filed the present writ petition in public interest litigation. We do not find any force in the preliminary objection raised by the Union Territory, Chandigarh, and are therefore unable to uphold the same.

(6) We also do not find any merit in the argument of the Union Territory, Chandigarh that States of Punjab and Haryana should be made parties. The primary responsibility of providing staff cars to the High Court Judges under the Act is on the Central Government. The question of sharing the expenditure is an internal arrangement between the Central Government and the State Governments. In this view of the matter, it is not necessary to add the States of Punjab and Haryana as parties to the present writ petition.

(7) Union Territory Administration has raised a preliminary objection that the petitioner who is an Advocate has no *locus standi* to file the present petition. The petition can only be filed by a person who is personally interested in the matter. It is true that according to the traditional rule of *locus standi* only a person whose legal right is affected is entitled to approach the Court for the grant of necessary relief. But in the modern times the concept of public interest litigation has developed which entitled a public spirited person to

move the Court for enforcement of legal right of a person who will not personally like to approach the Court because of the position or office he holds. While examining the question regarding the maintainability of the petition by a lawyer to uphold the independence of judiciary, P. N. Bhagwati, J., with A. C. Gupta, J., J. S. Murtaza Fazal Ali, J. D. A. Desai, J., R. S. Pathak, J., and E. S. Ventaramiah, J. in *S. P. Gupta and others v. President of India and others* (1), para 25 of the judgment observed as follows :—

“..... The petitioners being lawyers had sufficient interest to challenge the constitutionality of the circular letter and they were, therefore, entitled to file the writ petition as a public interest litigation. They had clearly a concern deeper than that of a busybody and they cannot be told off at the gates.....”

V. D. Tulzapurkar, J. in his concurring judgment observed in para 609 of the judgment as follows :—

“The practising lawyers, who are nothing short of partners in the task of administration of justice undertaken by the Judges, are vitally interested in the maintenance of a fearless and an independent judiciary to ensure fair and fearless justice to the litigants. Hence, in challenging the constitutionality of Law Minister's circular and grant of short-term extensions to sitting Additional Judges of High Court, the practising lawyers, either in their individual capacity or representing Lawyers' Association have not merely sufficient interest but special interest of their own in the subject-matter of the writ petitions and they cannot be told off at the gates and the petitions at their instance are clearly maintainable.”

(8) In view of the above enunciation of law by the Supreme Court regarding the *locus standi*, it is clear that the petitioner who is an Advocate of this Court is entitled to file the present petition under Article 226 of the Constitution of India. So, there is no force in the preliminary objection.

(9) Mr. M. L. Puri, Advocate, petitioner, strongly contended that the High Court Judges are entitled to the conveyance facilities as

laid down in Section 22-B of the Act. The provisions of Section 22-B of the Act reads as follow :

“22-B. Conveyance of facilities :—Every Judge shall be entitled to a staff car and one hundred and fifty litres petrol every month or the actual consumption of petrol per month, whichever is less.”

A perusal of the aforesaid provision clearly shows that the High Court Judge is entitled to Staff car and one hundred and fifty litres of petrol every month or the actual consumption of petrol every month, whichever is less. It is quite evident that Section 22-B of the Act confers a statutory right on the Judge to claim conveyance facility and is entitled to a staff car. Section 22-B of the Act casts a statutory obligation on the State to provide staff car to the Judges. Implicit in this facility is the requirement that the car allotted for use as such must, both in its class and state of repair, be such as is fit for this purpose, in keeping with the high status of the Judge of a High Court. In other words, it must always be in a good running condition, not one which on account of normal wear and tear or other defect ceases to be a safe or reliable vehicle, having the propensity to break down on a journey.

(10) The purpose of this provision of law is that a High Court Judge should have basic amenity to travel in a staff car. It is common knowledge that the High Court Judges have to visit District Headquarters at far off place in twin states of Punjab and Haryana for purposes of inspection of Courts and for holding special enquiries. In order to carry out this objection of the Act, a staff car placed at the disposal of a Judge has to be reliable roadworthy and free from the mechanical defect. It would defeat the purpose of the Act if the staff car placed at the disposal of the Judge is old and is not dependable. The significance of the control vested in the High Court on subordinate judiciary under Article 235 of the Constitution was considered by the Supreme Court in *'All India Judges' Association v. Union of India and others* (2). The Supreme observed as follows :

“Before we part, we must indicate with all the emphasis at our command that the system has to be saved as for a civilised society an enlightened independent judiciary is totally indispensable. The High Court must take greater interest in the proper functioning of the subordinate judiciary. Inspection should not be a matter of casual attention. The Constitution has vested the control of the

subordinate judiciary under Article 235 in the High Court as a whole and not its Chief Justice alone. Every Judge should, therefore, take adequate interest in the institution which is placed under the control of the High Court. We may point out that is what Lord Atkin said in *Debi Prasad Sharma v. King Emperor* 70 1A A.I.R. S.C. 216. And it has been approved by a Constitution Bench in *Baradakanta Mishra v. Registrar of Orissa High Court*, (1971) 1 S.C.C. 374. It should be remembered by all the Judges of the High Court, viz., that the administrative control of the subordinate Courts of the State vests not in the Chief Justice alone but in the Court over which the Chief Justice presides."

The High Court Judge cannot function effectly if the staff car placed at the disposal of a Judge is not dependable.

(11) If the Government does not place at the disposal of the High Court Judges, staff cars which are reliable and roadworthy, they would be surely failing in their duties as enjoined by the provisions of the Act.

(12) The question after how much mileage a staff car should be changed was referred to S. S. Sodhi, J. for examination. S. S. Sodhi, J. after considering the Staff Car Rules of Punjab, Haryana and Union Territory of Chandigarh noticed that staff cars provided to the Ministers are treated as of separate category. In Haryana the Minister's car is replaced after 2-3 years and 1,00,000 kms. While in Punjab car is replaced after 80,000 kms. It was further observed in the report that in order of precedence the Judges of the High Court are equated with the Ministers of the State Government and also keeping in view the status and dignity it deserves to be ensured that staff cars of the Judges are always in good working order, it is in the fitness of things, therefore, that they should be treated at par with Ministers of the two States. It was consequently recommended that as in Punjab, the Staff Cars of the Judges of the High Court are replaced after 80,000 kms. or after three years, as the case may be.

(13) The report of S. S. Sodhi, J. was considered in the meeting of all the Judges in the Full Court meeting. The High Court recommended to the Government that the staff cars placed at the disposal of the Judges should be changed after they have done 80,000 kms. or after three years. According to the written statement filed by the Union Territory Administration, the Administration has recommended to the Central Government for acceptance of the suggestions of

the High Court. So far no action has been taken by the Central Government.

(14) Union of India despite service of notice has not filed any written statement. Inordinate delay in not taking any decision on the recommendation of the High Court is clearly a breach of the statutory responsibility cast on the government. The guidelines laid down by the High Court are intended to carry out the purpose of Section 22-B of the Act. These guidelines are intended to provide that the cars placed at the disposal of the High Court Judges are in good working condition. The High Court after considering all aspects of the matter they have done 80,000 kms. or are three years old. There is hardly any justification on the part of the Government in not implementing the recommendation of the High Court. The failure to do so is clearly a breach of the statutory responsibility cast on the Government. It is also significant to note that Registrar (General) of the High Court also helps the High Court in discharging of the responsibilities under Article 235 of the Constitution. He has to accompany the Chief Justice when he visits Delhi for official purpose or to any other part of the States of Punjab and Haryana. Even otherwise the car placed at the disposal of the Registrar (General) should be reliable and road-worthy. The car provided to him should also be proper. The car provided to the Registrar (General) should also be replaced after 80,000 kms. or after five years. It must be mentioned that the Registrar (General) who is Chief Administrative Officer of the High Court is usually one of the senior-most District and Sessions Judge from either of the two sister States of Punjab and Haryana who both in the terms of his service conditions as well as the directions of the Supreme Court in *All India Judges' Association's case* (supra) is entitled to a staff car.

(15) It was contended by Mr. R. L. Sharma, District Attorney of Union Territory Administration that according to the Staff Car Rules of the Central Government a vehicle is condemned after it has run 1,50,000 kms. or is eight years old. High Court Judges are entitled to Staff Cars under Section 22-B of the Act. The staff cars should be dependable and roadworthy. The normal rule of the Government regarding condemnation of the cars cannot be applied to the Judges of the High Court because the Judges of the High Court stand in a separate category in view of the special provision made in Section 22-B of the Act. It was precisely for this reason that after thorough enquiry into the matter by S. S. Sodhi, J., the Judges in the Full Court meeting decided to make recommendation to the Government of India for replacement of cars after 80,000 kms. or after three years.

(16) It may be mentioned that in order to carry out the responsibility cast by law, the Government has a power to make rules under Section 24 of the Act. The Government in the absence of statutory rules framed by the Government, should be guided by the recommendation of the High Court. Inordinate delay in not taking any decision on the recommendation, clearly constitutes failure to discharge statutory responsibility to provide staff cars to the Judges.

(17) In view of the above discussion, we are of the view that the respondents are bound to provide staff cars to the Judges and they must be changed after the car has done 80,000 kms. or is five years old. According to the written statement filed by the Registrar of the High Court a large number of cars provided to the Judges have already done more than 80,000 kms. or are more than five years old. The cars require expensive repairs. There is no justification in delaying the replacement of the cars placed at the disposal of the Judges of the High Court which have already done 80,000 kms. or are more than five years old.

(18) The petitioner has also claimed in this writ petition that the security arrangements of the Judges of the High Court are not adequate. A High Court Judge is entitled to proper security. The High Court Judges decide criminal cases daily some of which are of hardcore criminals. They cannot discharge their judicial functions without proper security. The adequacy of the security of the Judges should be decided by respondent Nos. 1 and 2 in consultation with the Chief Justice of the High Court. It may be mentioned that the Chief Justice of the High Court knows fully well as to what type of security should be provided to the Judges. The Government should formulate these guidelines for providing proper security to the Judges of the High Court in consultation with the Chief Justice. We, however, as a measure of economy, consider that the cars which have done 80,000 kms. or are more than five years old, whichever is earlier, should be replaced.

(19) In view of the above discussion, this writ petition is allowed and a writ of *mandamus* is issued directing respondent Nos. 2 and 3 to immediately purchase and replace seven cars including one for the Registrar (G) for which a reference has already been made by respondent No. 1 to respondent No. 3. This purchase and replacement would be completed on or before 30th April, 1993, failing which it will be obligatory for respondent No. 1 to make the purchases and debit the purchase price of the cars to respondent

Nos. 2 and 3. We further direct that respondent would replace the cars which have already done 80,000 kms. or are more than five years old, whichever is earlier, without further delay. This replacement should also be made by 31st May, 1993.

(20) In view of the special circumstances of the case, there will be no order as to costs.

J.S.T.

Before Hon'ble G. R. Majithia & N. K. Sodhi, JJ.

PREM SINGH AND OTHERS,—*Petitioners.*

versus

LABOUR COMMISSIONER, PUNJAB AND OTHERS,—*Respondents.*

Civil Writ Petition No. 2464 of 1991

August 25, 1993

Constitution of India, 1950—Art. 226/227—Industrial Disputes Act, 1947—Section 10—Reference—Limitation Act, 1963—Art. 137—Residuary provisions of Art. 137 of Limitation Act provide for 3 years limitation to apply for reference—Whether delay in applying for reference is valid ground to decline such reference under section 10 of the Industrial Disputes Act.

Held, that to sum up, it must be held that no period of limitation is prescribed for making of a reference under Section 10(1) of the Act and that provisions of Articles 137 of the Limitation Act do not apply but nevertheless the appropriate Government should refer the disputes at the earliest and it is open to the said Government to decline a reference if it is belated or sought to be raised after a long lapse of time. As to when a dispute becomes stale so as to justify the Government to decline to refer the same for adjudication will depend upon the facts and circumstances of each case of which the appropriate Government would be the sole judge subject, of course, to judicial review by this Court under Article 226 of the Constitution. In other words, it cannot be laid down as a proposition of law that the Government can in no case decline a belated reference and that it is for the adjudicating authority only to mould its relief in the light of the delay made in making the reference.

(Para 5)

Hemant Kumar, for the Petitioner.

G. S. Cheema, A.A.G. Punjab, for the Respondent.