Before Arun B. Saharya, C.J. & V.K. Bali, J

MUNICIPAL CORPORATION, AMRITSAR,—*Appellant*

versus

JAGDAMBA DUTT,—*Respondent*

L.P.A. No. 885 of 1992

19th April, 2000

Constitution of India, 1950—Art.226—Municipal Corporation withholding retiral benefits of the employee by adjusting house rent/ penalty—Ld. Single Judge directing releasing of amounts due—Employee failed to vacate the quarter after retirement—Huge amount of arrears of rent also not paid—Not ready to vacate the quarter even now-Reprehensible conduct of the employee—Mandamus jurisdiction of High Court—Discretion—Exercise of—Judicially & reasonably—Petitioner not entitled to the discretionary relief under Article 226—Order of Ld. Single Judge set aside—Appeals allowed with costs.

Held that Article 226 of the Constitution of India empowers the High Court to issue writs, orders or directions in the natutre of Habeas Corpus, Mandamus, Prohibition, Quo-warranto and certiorari for the enforcement of fundamental rights and for any other purpose. But it is not necessary to issue writs, orders or directions in every case where it may find infringement of a fundamental right or any legal right. Despite, thus, there being a complete case i.e., showing infringement of a right of a citizen guaranteed to him under the Statute, the Court can still refuse to issue a writ, order or direction. Naturally, refusal to issue a writ in such an event has to be judicial and reasonable.

(Paras 12 & 14)

Further held, that the petitioner has taken undue advantage of the service benefits that were admissible to him at one stage. Having occupied a quarter allotted to him by the employer, he was duty bound to restore its possession immediately or after a couple of months when he superannuated. Quite to the contrary, he is treating the quarter allotted to him by his employer as his personal property. He has spent a considerable amount in not only renovating the quarter but making further construction thereon and is not even shy in openly proclaiming that he shall not vacate the same. For restoration of possession to the

Municipal Corporation, he challenges the employer to vindicate its stand in appropriate proceedings that may take years but insofar as post retiral dues are concerned, he wants this Court to immediately issue a writ of Mandamus directing the employer to pay the same. His conduct is most reprehensible and unbecomg of a good officer/ official. Further, by his own act and conduct, he has put his employer to an immense loss which may be far more comensurate to his own dues. surely, he is not entitled to the discretionary, relief from us under Article 226 of the Constitution of India.

(Para 18)

A.S. Bakhshi, Advocate, *for the appellant.*

R.K. Malik, Advocate, *for the respondent*

JUDGMENT

V.K. Bali, J.

(1) By this common order, we propose to dispose of three connected matters, i.e., LPA Nos. 885, 889 of 1992 and CWP No. 15994 of 1992, as common questions of law and fact are involved therein. Learned counsel for the parties also suggest likewise. The facts have, however, been extracted from LPA No. 885 of 1992.

(2) Having retired as an Electrician a decade ago on June 30, 1990, Jagdamba Dutt (here-in-after to be referred as the petitioner) has not vacated the quarter allotted to him when he was in the employment of Municipal Corporation, Amritsar (here-in-after to be referred as 'appellant'). Having raised substantial construction by spending considerable amount thereon, he was not prepared to vacate it at any stage nor even now. Concededly, the appellant has withheld his provident fund, gratuity and encashment of earned leave on the plea of adjustment of the amount that petitioner has to pay by way of house rent/penalty. The pertinent question that has been raised in this Letters Patent Appeal, thus, is as to whether, based upon the service rules, as also provisions contained in the Payment of Gratuity Act, 1972 and the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, he can enforce his right for the retiral dues, as mentioned above, or that the Court, in its writ jurisdiction under Article 226 of the Constitution of India, can relegate him to his ordinary remedy of civil suit where it may be possible to work out adjustments and to pay him residual, if any. Petitioner, for his cause, however, succeeded before the Learned Single Judge as,—*vide* impugned judgment dated 31st January, 1992, his petition was allowed and the appellant was

directed to release the amounts due to him within two months from the receipt of the copy of the order. The petitioner was also held entitled to the interest at the rate of 12% from 1st October, 1990 till the date of actual payment as also costs that were assessed at Rs. 2000. It is this order of learned Single Judge which has been called in question in this appeal filed by the appellant under Clause X of the Letters Patent.

(3) Before we may, however, advert to the question referred to above in the light of submissions made by the learned Counsel representing the parties, it would be useful to give the factual matrix leading petitioner to demand post retiral benefits as detailed above.

(4) Petitioner was appointed by appellant on 19th April, 1950. He retired on attaining the age of superannuation on 30th June, 1990. After retirement petitioner made number of oral and written requests for releasing his post retiral benefits but when the same brought no tangible results, the present writ petition for the reliefs, as mentioned above, was filed in this Court on 24th May, 1991.

(5) The claim of the petitioner was seriously opposed by pleading in the written statement that petitioner has tried to conceal from this Court that huge amount of arrears of rent for the municipal quarters which are in possession of the petitioner has since not been paid by him. Market value of the quarters and the land therein which is in his possession comes to Rs. 1,08,666 and the market rent per month is Rs. 675 which the petitioner has failed to pay since his retirement. The arrears of rent upto 31st August, 1991 comes to Rs. 9550. The petitioner has failed to vacate the quarters and handover possession. According to service rules, the petitioner would be entitled to get gratuity and other dues only after he has cleared all the dues of the Municipal Corporation. The Chief Electrical Engineer,—*vide* his letter dated 9th January, 1991, requested the petitioner to vacate the municipal quarters and pay rental thereof but the petitioner failed to comply with the same. The petitioner, it is further pleaded, can not claim his dues through writ and force the Corporation to file civil suit in the court. It would be neither just nor equitable. The Corporation is fully justified in withholding the payments till the petitioner pays arrears of rent and vacate the quarter.

(6) Petitioner filled replication to the written statement filed on behalf of the employer denying the assertions made by it that huge amounts of arrears of rent were due and the petitioner had failed to pay the same. It has been pleaded that outside the campus of the Municipal Corporation, the petitioner had made his hut with his own resources and even the land on which hut is built, does not belong to

the Municipal Corporation. No. allotment letter was issued by the Corporation. It is further pleaded that the Corporation wrongly deducted the rent from salary of the petitioner. Petitioner and other affected persons continued to represent the respondents regarding action of the Corporation in deducting the rent from their salaries. Copies of some representations that are stated to have been made to the Municipal Corporation, have been annexed with the replication as Annexures P4, P5 and P6. It is also the case of petitioner that there has been resolution of the case of petitioner that there has been resolution of the employer in which it was mentioned that the huts had since been constructed by the employees from their own resources. A copy of said resolution has also been annexed with the replication as Annexure P-7. It is then pleaded that the petitioner had filed a case under Section 33-C(2) of the Industrial Disputes Act on 6th December, 1984 that the respondent Corporation, without mandate, deducted the rent from his salary. The employer filed reply to this application. However, lateron the said application was dismissed as withdrawn. Once again, a similar application was filed on 9th December 1996. To this application as well, the corporation filed reply and the same is stated to be still pending. The replication was filed on 26th November, 1991.

(7) In the representation, Annexure P-4, it is, however, interesting to note that in the very first para, it has been mentioned that the Municipal Corporation had won over the hearts of general public as also its employees by redressing their grievance who were residing in *Municipal huts* (emphasis supplied), situated opposite Power House, near Sikanderi Gate, Amritsar. It has further been mentioned that in the year 1952-53 they were advised to occupy the place mentioned above by the late Executive Officer, Shri P.C. Bhandari, with the assurance that new quarters would be constructed within a short period. Accordingly, on the said assurance, the land was brought in accord with the living standards by the employees at their own expenses. Thereafter, the matter, however, remained unsolved. It has further been mentioned that the employees were always applying for construction of the quarters because the arrangements made by them for living were not satisfactory and condition of these huts was becoming very dangerous day by day for the residence. The department instead of making any suitable arrangement or spending any money, started charging rent of the said huts. It has also been mentioned that from the year 1965 the Government has been pleased to sanction the house rent to the employees but the employees, who were residing in the huts, were being deprived of the said benefit. In the ultimate analysis a request was made to either make improvement in the huts

or to allow them to avail the facility of house rent sanctioned by the Government. In representation, Annexure P-5, no doubt, whereas it has been mentioned that the quarters are not constructed on the municipal land because Shijra is silent in respect of ownership of the said land belonging to Municipal Corporation, it has also been mentioned that the employees are being unnecessarily harassed by charging from them house rent @ 2 % of their basic pay from their monthly salaries for the last so many years. Despite that, no arrangements were being made by the department for repairs and white wash of the quarters. A prayer had then been made that rent, according to the slab sanctioned under the rules, be paid to them and no deduction, such as 2% be made from their salaries. In representation, Annexure P-6, the complaint is again of charging 2% of basic pay as house rent and not making any repairs or doing even white wash of the quarters. In the resolution, Annexure P-7, all that has been mentioned is that inasmuch as there is some litigation with regard to ownership of land with some other department and for that reason proper rapairs could not be carried out, the rent should be reduced. Insofar as two applications that were filed by the petitioner under Section 33-C(2) of the Industrial Disputes Act are concerned, it has been pleaded in the replication itself that the first application was withdrawn and, during the course of arguments, Mr. Ram Kumar Malik, learned counsel for the petitioner, after getting proper instructions, states that second application too met with same fate.

(8) From the pleadings of the parties, as are available before us, what really emerges is that in fact and reality, the Municipal Corporation had allotted the quarters to its employees, one of which is being occupied by the petitioner till date. It further clearly emerges from the pleadings and documents, that have been annexed with the replication, that documents, that insofar as employees of the Municipal Corporation inclusive of petitioner, are concerned, they were paying the rent of the quarters allotted to them as the same was being deducted from their salaries. Further, there may have been some litigation between the Municipal Corporation and some other department of the Government but, as mentioned above, insofar as employees of the Municipal Corporation and the petitioner are concerned, they derived their right to occupy the quarters by authorisation and consent of the Municipal Corporation alone and none other. During the course of arguments, to a pertinent question put to Mr. Malik, learned counsel for the petitioner, as to whether the petitioner is even now prepared to vacate the quarter that was allotted to him by the Municipal Corporation, prompt came a reply that the same was not acceptable to the petitioner, who is stated to have spent a lot of money in raising

construction of the quarter and as such is not prepared to vacate the same.

(9) Having seen the factual background of the case and, in particular, that the petitioner did get into the quarter occupied by him till date, on consent/authorisation given to him by none other than the appellant, and further that he was all through paying house rent for the same, which, as mentioned above, was being deducted from his salary, he can not deny his status to be that of a licensee. This licence had necessarily to expire on the eve of superannuation and thereafter he can be termed to be only an unauthorised occupier of the municipal quarter. The market value of the quarter and the land thereunder, which is in possession of the petitioner, was assessed to be Rs. 1,08,666 at the time when written statement was filed, i.e., 1991 and market rent per month thereof was Rs. 675 in 1991. The arrears of rent upto 31st August, 1991 that were due towards petitioner, were Rs. 9550, if no penalty was to be imposed upon him. If rent alone is calculated till date, it would come to be about rupees one lac. If the appellant might impose penalty upon the petitioner for the period he has over stayed in the quarter allotted to him, the amount shall be far more than what has been mentioned above, as compared to the amount that the petitioner has to pay by way of house rent and penalty. Nothing can be commented upon insofar as anout which is due to the petitioner towards provident fund, gratuity and leave encashment is concerned. Nothing at all has been mentioned in the petition as to what exact or even approximate amount petitioner is entitled towards provident fund, gratuity and leave encashment. Concededly, as per the service rules, petitioner is not entitled to any pension nor has he laid any claim on that count.

(10) Insofar as entitlement of petitioner with regard to gratuity, provident fund and leave encashment is concerned, as mentioned above, same is not in dispute. Not only the service rules enjoin upon the employer to pay the aforesaid post retiral benefits to its employees, but, insofar as gratuity is concerned, same can be recovered under the provisions of section 8 of the payment of Gratuity Act, 1972 as arrears of land revenue. Further, by virtue of the provisions contained in Section 13 of the said Act, gratuity is protected inasmuch as no gratuity payable under the Act, can be liable to attachment in execution of a decree of Civil, Revenue or Criminal Court. Payment of provident fund is also statutorily protected under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

(11) Having evaluated the facts and circumstances of the case as also entitlement of the petitioner of his post retiral dues and, in

particular, gratuity, provident fund and leave encashment, and the corresponding duty of the employer to pay the same soon after superannuation of an employee, time is now ripe to ascertain as to whether, where an employee is either concededly in arrears of the dues towards his employer or it is otherwise established. High Court, in its writ jurisdiction under Article 226 of the Constitution of India, must necessarily issue a writ of mandamus directing the employer to pay its employee the post retiral benefits and for its own amount, it may have resort to such legal remedies as may be admissible under the law or the employer can justifiably ask for adjustments. The other question that arises in the facts and circumstances of this case is as to whether, whatever be the conduct of an employee, when the Court might find an enforceable right in favour of a citizen, it must command the employer to meet its obligation or that if the finding with regard to reprehensible conduct of the petitioner can be returned, he can be denied the relief asked for by him, or in alternative asked to seek his remedy through Civil Court or other forums that may be available to him.

(12) Article 226 of the Constitution of India empowers the High Court to issue writs, orders or directions in the nature of Habeas Corpus, Mandamus, Prohibition, Quo-warranto and certiorari for the enforcement of fundamental rights and for any other purpose. Under the first part, a writ may be issued under the Article only after a decision that the aggrieved party has a fundamental right and it has been infringed, under second part, writ may be issued only after finding that the aggrieved party has a legal right which entitles him to any of the five writs and such right has been infringed. For quite sometime, after introduction of the Constitution of India, the consistent view was that when court finds infringement of a fundamental right, a writ can not be refused, on the ground that it involves determinatioin of disputed questions of fact, delay or laches, conduct of a party and reasons asjudem generis. However, insofar as second part of Article 226 is concerned, i.e., issuing writ for any other purpose, it has always been in the discretion of the High Court to interfere or not, depending upon the facts and circumstances of each case. The law that High Court should interfere when it was enforcement of fundamental rights whatever be the facts of the case, has later been watered down by number of judgments of the Supreme Court. In *Durga Parshad* vs. *The Chief Controller of Imports and Exports & Ors.*(1), it was held by the Apex Court that even where there is an allegation of breach of fundamental right, the grant of relief is discretionary, even though such discretion has to be exercised judicially and reasonably. In the

(1) AIR 1970 SC 769

case aforesaid the relief was declined on laches. The petitioner had a Import licence in 1959 and received the licence only for a fraction of amount for which he had asked for. He chose to wait and came to the court in 1964 requesting for a writ of mandamus. It was observed by the Supreme Court that "even if fundamental rights are involved, the matter is still in the discretion of the High Court, and the High Court, in its discretion, can refuse the issue of a writ because of the laches of the applicant." While dealing with fundamental rights of a citizen and interference by the Supreme Court by virtue of Article 32 of the Constitution of India, which deals with enforcement of fundamental rights only, it was held in *M/s Tilokchand Motichand & Ors.* v *H.B. Munshi & Anr.(2), that "the extent or manner of interference is for the court* to decide. Interference must always depend upon the facts of each case."

(13) A Constitution Bench of Supreme Court in *The Moon Mills Ltd.* v. *M.R. Meher,* (3) held that "writ is legally a matter of sound discretion and would not be issued if there be such negligence or omission on the part of the applicant to assert his right as taken in conjuction with the lapse of time and other circumstances, causes prejudice to the adverse party." Writs, insofar as they are concerned with enforcement of other rights, i.e., second part of Article 226 of the Constitution of India, are not issued as a "matter of course" (Halsbury's 'Laws of England' Hailsham Edition, Vol. 9, paras 1480 and 1481, pages 877-878). In *Shangrila Food Products Ltd. & Anr.* v *Life Insurance Corporation of India & Anr.* (4) it was held that "the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India can take congnizance of the entire facts and circumstances of the case and pass appropriate orders to give the parties complete and substantial justice. This jurisdiction of the High Court , being extraordinary, is normally exercisable keeping in mind the principles of equity. One of the ends of the equity is to promote honesty and fair play. If there be any unfair advantage gained by a party priorly, before invoking the jurisdiction of the High Court, the court can take into account the unfair advantage gained and can require the party to shed the unfair gain before granting relief" :

(14) From the summary of case law, as has been discussed above, it has, thus, to be held that High Court interferes under Article 226 of the Constitution of India for enforcement of fundamental rights and any other right but it is not necessary to issue writs, orders or directions

(2) AIR 1970 SC 898
(3) AIR 1967 SC 1450
(4) (1996) 5 SCC 54

in every case where it may find infringement of a fundamental right or any legal right. Despite, thus, there being a complete case, i.e., showing infringement of a right of a citizen guaranteed to him under the Statute, the Court can still refuse to issure a writ, order or direction. Naturally, refusal to issue a writ in such an event has to be judicial and reasonable.

(15) Mr. Ram Kumar Malik, learned counsel representing the petitioner, however, relies upon a judgment of Supreme Court in *R.Kapur* v *Director of Inspection (Painting & Publicatiion) Income Tax and Anr.,*(5) to contend that gratuity can not be withheld merely because the claim for damages for unauthorised occupation is pending. The facts of the case aforesaid reveal that petitioner (R. Kapur) while working in Delhi, occupied a pooled Central Government accommodation. The licence fee was fixed at Rs. 88 per month. The rules relating to charging of licence fee were amended in June, 1976 and he had, thus, to pay damages for use and occupation of the accommodation equal to the market licence fee as might be determined by the Central Government from time to time. In May, 1979, petitioner was transferred out of Delhi. However, he continued to retain the official residence notwithstanding the fact that the allotment was cancelled from 1st July, 1979. He was retransferred to Delhi in 1983 and the allotment was regularised. During the period of his unauthorised occupation, in view of the proceedings initiated under the Public Premises Act, the Estate Officer levied damages. Against this order, an appeal was preferred before the District Judge and by order dated 25th July, 1984, the damages were reduced from Rs. 1070 to Rs. 176. During the pendency of the appeal before the learned District Judge, petitioner had even preferred a Civil Writ Petition before the Delhi High Court challenging the recovery from him for the period from 1st January, 1976 to August, 1979. The High Court took the view that it was open to the petitioner to approach the department concerned inasmuch as damages had since been reduced to Rs. 176 per month by the District Judge in appeal. Despite two orders, referred to above, i.e., the one by the District Judge reducing the damages as also one passed by the High Court, the Directorate of Estate did not order refund. The petitioner, thus, addressed a letter dated 19th December, 1984 requesting the orders to be passed for refund but there was no response. Without deciding the representation of the petitioner and yet refusing to issue a No Demand Certificate, gratuity of the petitioner was withheld. It is in the facts and circumstances, as fully detailed above, that the Hon'ble Supreme Court ordered that death-cum-gratuity could not be withheld merely because the claim for damages

(5) JT 1994 (6) SC 354

for unauthorised occupation was pending and the petitioner was also held entitled to 18% interest. We are of the view that the facts of the case in hand and the one that were before the Supreme Court in R. Kapur's case (supra), are distinguishable. In the case in hand, petitioner has concededly retired and is not entitled to retain the house after the date of his superannuation or, at the most 2-3 months after the said date, depending upon the service rules. As mentioned above, he retired about a decade ago and is not prepared to vacate the quarter, allotted to him, even now. The petitioner in R.Kapur's case (supra) had only been transferred but had unauthorisedly kept in his possession the house allotted to him in Delhi. After some interregnum, he was transferred back to Delhi and on his retransfer, allotment of house had been regularised. In his case, it was only a question of paying damages for unauthorised occupation which, in appropriate proceedings, were determined but later reduced by the learned District Judge. As to whether R. Kapur could at all be proceeded under the Public Premises Act for recovery of damages was, however, not determined by the High Court and in turn was left to be decided by the concerned authorities on representation to be made by the petitioner by dint of the orders passed on that count by the High Court. This representation was pending and had not since been decided. No refund was made available to R. Kapur, which ought to have been done in obedience to the orders passed by the District Judge, reducing the amount of damages. It is in wake of these facts and circumstances that the Hon'ble Supreme Court held petitioner in that case entitled to death-cum-retirement gratuity and that too with 18% interest.

(16) Learned counsel for the petitioner also relies upon DB judgment of Kerala High Court in *Travancore Plywood Industries Ltd.* v *The Regional Joint Labour Commissioner & Ors., (6)* to contend that gratuity can not be withheld on refusal of employee to surrender the house that may be in his occupation. The facts of the case aforesaid, to the extent same can be ascertained, were that the company had pleaded that the applicant had not settled the accounts as he had failed to surrender possession of an extent of 30 cents of land which belonged to the Company and had been given to the applicant under a licence and that the applicant was bound to surrender the same as and when directed to do so. The plea of the applicant, on the other hand, had been that he was working as a Chargeman in the petitioner company and had retired on superannuation on 19th June, 1984. He did not apply for licence for cultivating the portion of the properties belonging to the petitioner. As the property in his possession did not belong to the petitioner Company, the question of surrender did not arise at all.

(6) 1996 Lab. I.C. 1403

The petitioner Company had no right, title or authority over the property possessed by the applicant as the same was Atturpuramboke and the applicant was in absolute possession for the last 35 years. He had also tax receipts which he had produced during the course of proceedings. The petitioner company, before the concerned authority, had pleaded that the property was given on lease to the applicant and that property possessed by him was covered by title deeds. It was, however, by the concerned authority that from the alleged title deed produced by the Company and the tax receipts produced by the applicant, it could be seen that the sub division and survey numbers were different and that itself would show that the property did not belong to the Company. It was further held by the concerned authority that the petitioner Company produced before the authorities below certain documents including an agreement alleged to have been executed by the applicant and the applicant denied his signatures on the agreement and documents and he further stated that his signatures were forged. The facts of this case are also once again distinguishable from the facts of the case in hand. It was not a case of allotment of a residential accommodation or, for that matter, even land which one could occupy on the dint of his being employee of a particular organisation and wherein the right to occupy may be co-terminus with superannuation. On the other hand, it was a piece of land, said to have been given on lease and, it appears, this lease, if at all, had nothing to do with the relationship of the parties as employer and employee. Further, the authorities concerned had returned a finding that from the alleged title deeds produced by the Company and the tax receipts produced by the applicant, it could be seen that the sub division and survey numbers were different. It is true that completely divorced from the facts of the case, or in other words, without considering the effect of conduct of an employee on the basis of provisions contained in the payment of Gratuity Act, 1972, it was held that gratuity could not be withheld, except on the grounds mentioned in the provisions of Act itself. There was no occasion for the Hon'ble Bench, dealing with the matter, to deal with the conduct of the applicant in relation to his right of getting gratuity from the employer. The attention of the Court could not be focused on that issue for the primary reason that, on facts, findings were returned against the employer. This judgment, in our view, can not be attracted to the facts and circumstances of the present case. There is no need to give detailed facts of *G. Narayana Rao* v *V.R. Nagmani & Anr.*, (7), on which too reliance has been placed by learned counsel for the petitioner, as there can not be any dispute that the amount of gratuity, by the provisions contained in Section 13 of the

(7) 1997 Lab. I.C. 902

Act, can not be attached. We have already held and this has been throughout a conceded position as well, that petitioner does have a right, both under the service rules governing him as also the Payment of Gratuity Act, to get the gratuity from his employer, or for that matter, provident fund under the provisions of Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

(17) Mr. Malik also relies upon a DB judgment of this Court in *Gurcharan Singh* v *State of Punjab & Ors.* (8) but his contention, based upon the said judgment, needs to be summarily rejected as in that case the Division Bench had only held that there was no legal justification to withhold the amount of GPF, if petitioner had since been dismissed due to his conviction in a criminal case.

(18) Reverting to the facts of the present case, we can not help but return a firm finding that the petitioner herein has taken undue advantage of the service benefits that were admissible to him at one stage. Having occupied a quarter allotted to him by the employer, he was duty bound to restore its possession immediately or after a couple of months when he superannuated. Quite to the contrary, he is treating the quarter allotted to him by his employer as his personal property. He has spent a considerable amount in not only renovating the quarter but making further construction thereon and is not even shy in openly proclaiming that he shall not vacate the same. For restoration of possession to the Municipal Corporation, he challenges the employer to vindicate its stand in appropriate proceedings that may take years but insofar as post retiral dues are concerned, he wants this Court to immediately issue a writ of mandamus directing the employer to pay the same. His conduct, in our view, is most reprehensible and unbecoming of a good officer/official. Further, by his own act and conduct, he has put his employer to an immense loss which may be far more commensurate to his own dues. Surely, he is not entitled to the discretionary relief from us under Article 226 of the Constitution of India.

(19) In view of the discussion made above, whereas we allow L.P.A. Nos. 885 and 889 of 1992, set aside the order of learned Single Judge dated 31st January, 1992, CWP No. 15994 of 1992 is dismissed. Inasmuch as it is not known as to how much amount the employer owes to the petitioner towards post retiral benefits on three counts, referred to above, as also how much money shall be due that may be payable by the petitioner to his employer towards house rent/penalty, petitioner may approach an appropriate forum which may be civil suit

(8) 1999(2) RSJ 38

as well, wherein the Municipal Corporation shall be well within its right to claim adjustment. In such an event, only residual, if any, shall be paid to the petitioner and nothing more. The appeals are allowed with costs quantified at Rs. 5,000.

R.N.R.

Before V.K. Bali and M.L. Singhal, JJ.

RAJINDER KUMAR,—*Petitioner*

versus

STATE OF PUNJAB AND OTHERS,—*Respondents*

CWP No. 7781 of 1997

2nd June, 2000

Constitution of India, 1950—Art. 226—Public Interest Litigation— Allegations of large scale financial and procedural irregularities by President and members of Municipal Council in connivance with other Officers/officials—Prayer to direct the Chief Vigilance Officer (C.V.O.). Punjab, to inquire into allegations—Almost similar allegations made in an earlier writ petition filed by the petitioner—Enquiry by the C.V.O. Punjab has already been conducted—Findings of the enquiry against the Officers/officials of the Council and in favour of the President, M.C.— Officers/officials already charge sheeted and are facing departmental enquiry— Petitioner not satisfied with the findings of earlier enquiry— Whether another enquiry into the same allegations by the same Agency can be ordered— Held, no— If findings of the enquiry are to disliking of the petitioner, he can challenge the same, if permissible under law— Writ petitions dismissed.

Held that the prayer of the petitioner is to direct the official respondents to investigate large scale irregularities being committed by the President of Municipal Council, Mandi Gobindgarh in connivance with other officials, such as respondents 5 & 6, by an independent Agency, like, the Chief Vigilance Officer, Punjab. It is strange that even though prayer is to hold enquiry by the Chief Vigilance Officer, it has yet been pleaded in writ petition itself that enquiry has been conducted by the same Agency. Pleadings of the parties do clearly reveal that insofar as officers/officilas attached to the Council are concerned, quite a few of them, pursuant to an enquiry conducted by the C.V.O. Punjab have not only been held, *prima facie,* guilty but appropriate action is also in the offing against them. It is rather strange to note that the pettioner, insofar as official respondents are concerned, is only clamouring for early disposal of enquiries pending