



2025:DHC:493



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 29th January, 2025

+ W.P.(C) 1897/2004

MANOHAR SINGH

.....Petitioner

Through: Petitioner in person.

versus

N.T.P.C. LTD.

.....Respondent

Through: Mr. Rajesh Gupta, Mr. Puneet Taneja
and Mr. Amit Yadav, Advocates

+ W.P.(C) 5908/2022

MANOHAR SINGH

.....Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Ravinder Agarwal, Advocate for
CVC.**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J.****W.P.(C) 5908/2022 and CM APPL. 51214/2022**

1. This writ petition is preferred on behalf of the Petitioner for a direction to a third party to conduct time bound inquiry and take action as per law on the complaint dated 16.04.2021, submitted by the Petitioner to Central Vigilance Commission ('CVC'), which had forwarded the complaint after due examination for necessary action to CVO, Ministry of Power/ Respondent No. 1.



2. Petitioner avers that he is a senior citizen and an ex-employee of NTPC. He submitted a complaint dated 16.04.2021 to CVC for an independent and impartial inquiry against the Chairman and Managing Director ('CMD'), NTPC and other officials for abusing the process of the Court and committing fraud by filing false affidavits and suppressing material record, which led to a protracted litigation, hardship and harassment to the Petitioner. It is urged that the complaint was forwarded on 11.05.2021 by CVC to the CVO, Ministry of Power, a fact admitted by NTPC in response to an RTI application. Petitioner gave a representation on 27.12.2021 to the Secretary, Ministry of Power, for an early disposal of complaint and after keeping the complaint pending, the same has been rejected by a non-speaking and unreasoned order dated 14.01.2022 by merely stating that the complaint is devoid of merit. In this light, it is prayed that inquiry be entrusted on the complaint of the Petitioner to a third and independent party.

3. Short affidavit has been filed on behalf of NTPC and relying on the same, Mr. Rajesh Gupta submits that after the complaint dated 16.04.2021 was received by Respondent No.1/Ministry of Power, comments were sought from NTPC on the complaint and in response, NTPC vide letter dated 29.07.2021 had sent detailed comments, whereafter the allegations in the complaint were deliberated upon by the Ministry and finding no merit, the complaint was rejected. Petitioner's complaint was disposed of as per '*Comprehensive Guidelines on Complaint Handling Mechanism*' issued by CVC as streamlined by Circular dated 24.12.2021, bearing No.25/12/21.

4. It was further argued that having regard to the nature of allegations in the complaint, CVC acted under Rule 4.1 (iv) of CVC Guidelines and



followed the procedure prescribed under Rule 4.4(c). Following the laid down procedure, CVC forwarded the complaint to CVO, Ministry of Power, for necessary action and this intimation was communicated to the Petitioner vide letter dated 11/18.05.2021. CVO found the complaint to be administrative in nature and directed it to be forwarded for appropriate action to NTPC, since the complaint pertained to the said organisation. Looking at the allegations in the complaint, NTPC inquired into the matter and submitted its report dated 29.07.2021 to the Ministry. The CVO, Ministry of Power, examined the report along with factual inputs and Court orders and found the complaint to be bereft of merit and rejected the same vide order dated 14.01.2022. Petitioner can have no cause of action as his complaint has been examined at all levels, extensively.

5. Having heard the Petitioner in person and counsel for the Respondents, I am of the considered view that there is no infirmity in the order dated 14.01.2022. As brought out by the Respondents, Petitioner's complaint was referred by the CVC to the Ministry of Power and CVO of the Ministry sought comments and report from NTPC. A detailed report dated 29.07.2021 was sent by NTPC to the Ministry, which is appended to the writ petition. In the said report, background facts of the complaint, which pertained to the grievance of the Petitioner ventilated before the Court in the writ petition filed in 2004 being W.P.(C) 1897/2004, were detailed. It was explained that Petitioner's selection with NTPC was through open recruitment and cannot be treated as an appointment on foreign service or deputation. It is stated that Petitioner had raised the legal issues pertaining to his appointment and pay protection etc. but lost in all proceedings upto the Supreme Court. It is denied that NTPC filed any false affidavit either before



CIC or this Court. Petitioner was given opportunity to raise his grievance upto the highest authority in NTPC but the allegations were found to be without any substance and even the Courts found no merit in his case. Having gone through the detailed report dated 29.07.2021 sent by the NTPC to the Ministry of Power, this Court is of the view that necessary inquiry into the allegations made by the Petitioner in his complaint dated 16.04.2021 has been conducted at all levels i.e. CVC, CVO, Ministry of Power as well as the NTPC. This Court finds no reason to re-open the complaint and direct any third party to conduct an inquiry.

6. Thus, no interference is warranted in the impugned order dated 14.01.2022 and the writ petition is accordingly dismissed.

7. Pending application also stands disposed of.

CM APPLs. 29353/2023, 19257/2024 and CRL. M.A. 17986/2022 in W.P.(C) 1897/2004

8. This writ petition was preferred by the Petitioner in 2004 for a direction to the Respondent/National Thermal Power Corporation Limited ('NTPC') to refix his pay at a higher level in an appropriate grade with consequential benefits from the date on which the Petitioner joined NTPC in terms of Office Order dated 07.12.1981.

9. Petitioner was originally appointed by Intelligence Bureau ('IB') as a Junior Intelligence Officer-1 (Tech.) and was subsequently recruited by NTPC as Supervisor Grade-II vide letter dated 07/08.12.1981 in the pay scale of Rs.550-900. Petitioner claimed retention of lien and pay protection vide application dated 28.01.1982 and while the request for retention of lien was allowed vide Office Order dated 24.02.1982, treating the Petitioner's case as a special case, his request for pay protection was not acceded to. By



the same order, Petitioner was informed that his pay will be fixed in accordance with Ministry of Finance O.M. dated 04.05.1961 and OM dated 10.03.1967 for the period of retention of lien.

10. Petitioner filed the present petition claiming that his pay be fixed in accordance with the pay drawn by him in his parent department i.e. IB as his appointment was on deputation/foreign service with NTPC. In a nutshell, Petitioner sought re-fixation of his pay as per the Last Pay Certificate issued by IB. Respondent contested the case on the ground that Petitioner's appointment with NTPC was neither a deputation nor an assignment on foreign service and he was recruited through an open recruitment process. His pay scale was fixed at Rs.550-900 as per the appointment letter and no claim could be made to enhance the pay scale.

11. This writ petition was dismissed vide judgment dated 16.04.2015 holding that Petitioner's appointment was on direct recruitment basis as evident from his offer letter dated 07/08.12.1981, wherein the pay scale was also specified. Merely because the IB treated the Petitioner on foreign service, Petitioner cannot be treated on deputation looking at the stand of NTPC that this was a case of direct recruitment. The writ petition was also dismissed on ground of delay and laches observing that Petitioner's request was rejected by NTPC vide letter dated 11/12.04.1983, whereas he approached the Court in 2004. It was held that while strictly Limitation Act, 1963 does not apply to writ petitions but the principle will apply and in this context the Court alluded to the judgment of the Supreme Court in *State of Orissa and Another v. Mamata Mohanty, (2011) 3 SCC 436*.

12. Petitioner preferred an appeal being LPA No. 326/2015 against the judgment dated 16.04.2015 which was dismissed vide order dated



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25.05.2015 on the ground that if the Petitioner was aggrieved that the writ petition was dismissed in his absence, he should have moved an application before the learned Single Judge for recalling the order, making out sufficient cause for non-appearance on 16.04.2015. Petitioner filed an application being CM APPL. No.11099/2015 in the writ petition for recalling order dated 16.04.2015 and re-hearing the writ petition. This application was dismissed by the learned Single Judge on 06.10.2015 observing that once the writ petition was decided on merits *albeit* in the absence of the Petitioner, there is no provision for arguing the matter once again. If the judgment is passed on merits and the writ petition is not dismissed in default on account of absence of the Petitioner, no provision permits that matter be heard afresh and therefore, the only method by which a judgment on merits can be sought to be recalled is either by filing a review petition or by a challenge on merits before the Higher Court. Having so observed, Court examined the contentions on merits and held that no ground to review the judgment even on merit, was made out.

13. Petitioner filed an appeal being LPA No. 840/2015 challenging orders dated 16.04.2015 and 06.10.2015. He also filed an application being CM APPL No. 29040/2015 in LPA No. 326/2015 for revival/restoration of the appeal. By order dated 15.12.2015, LPA No. 840/2015 was dismissed and by a separate order dated 15.12.2015, CM APPL No. 29040/2015 in LPA 326/2015 was also dismissed. Review Petition being R.P. No. 21/2016 in LPA No. 840/2015 was dismissed on 22.01.2016 and Review Petition being R.P. No. 44/2016 in LPA No. 326/2015 was dismissed vide order dated 01.02.2016.



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14. Against orders dated 15.12.2015 and 01.02.2016 in LPA No. 326/2015 and order dated 01.02.2016 in R.P. No. 44/2016, Petitioner filed SLP (C) No. 8738-8739/2016 before the Supreme Court which was dismissed vide order dated 23.09.2016. Similarly, SLP (C) No. 23603-23604/2016 was dismissed on 05.08.2016 against order dated 15.12.2015 in LPA No. 840/2015 and order dated 22.01.2016 in R.P. No. 21/2016.

15. After the SLPs were dismissed by the Supreme Court, Petitioner started the next round of litigation in this Court and filed CM APPL. No. 26516/2022 in the present petition *inter alia* for re-calling judgment dated 16.04.2015, which application was dismissed on 22.07.2022. LPA No. 511/2022 against the said order was disposed of by the Division Bench on 10.12.2022. The Division Bench permitted the Petitioner through *amicus curiae* to withdraw the appeal with liberty to take appropriate steps before the learned Single Judge for withdrawal of the review petition, without going into the merits of the case. Basis this liberty, Petitioner filed CM APPL. 47365/2022 in this writ petition seeking permission to withdraw CM APPL. No. 26516/2022.

16. Petitioner also filed CrI. M.A. No. 17986/2022 seeking an inquiry against Shri Navin Kumar with a direction to take cognizance against him for offences under Sections 191 to 195 and 218 IPC predicated on a plea that in the counter affidavit dated 14.07.2004, signed by Shri Navin Kumar, he had knowingly and deliberately made false statements. This allegation was purportedly based on some information received under the RTI Act from Director, Vigilance, NTPC. On 16.03.2023, Petitioner pleaded that he was not pressing this application and the same was dismissed as withdrawn and by the same order CM APPL. 47365/2022 was adjourned.



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17. Petitioner thereafter filed CM APPL. 14985/2023 for correction of order dated 16.03.2023 to the effect that withdrawal on 16.03.2023 was in respect of CM APPL. 47365/2022 and not Crl.M.A. 17986/2022. This application was allowed by the Court on 27.03.2023 and resultantly, Crl.M.A. 17986/2022 was restored to its original number and CM APPL. 47365/2022 was dismissed as withdrawn without liberty to the Petitioner to file any application on the same cause of action.

18. Petitioner then filed CM APPL. 29353/2023 raising a grievance against paragraph 10 of order dated 27.03.2023 which recorded that withdrawal of CM APPL. 47365/2022 and CM APPL. No. 26516/2022 was without granting liberty. CM APPL. 19257/2024 was filed seeking permission to amend the relief clause in Crl.M.A. 17986/2022 to raise grievance with respect to pay fixation, pension and consequential benefits.

19. In this backdrop, three applications, i.e. Crl.M.A. 17986/2022, CM APPL. 29353/2023 and CM APPL. 19257/2024 are before this Court, which are being disposed by this judgement.

20. Coming first to Crl.M.A. 17986/2022. By this application Petitioner seeks an inquiry against Sh. Navin Kumar for allegedly making false averments in counter-affidavit dated 14.07.2004 filed by NTPC in the main writ petition. Petitioner contends that knowingly and deliberately Sh. Navin Kumar concealed Corporate Personnel Circular dated 25.02.1980 on the subject of increments as also suppressed written communication dated 20.04.1982 and other documents such as terms and conditions of foreign service dated 23.04.1983 issued under Fundamental Rules by Director, IB and IB's confirmatory letter dated 03.08.1983, etc. Application is opposed



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by NTPC on ground of delay, merit of the application and an earlier complaint case filed by the Petitioner in the Court of Metropolitan Magistrate-01, Saket Courts under Section 200 Cr.P.C., alleging that two other senior officers of NTPC had knowingly misrepresented and taken false stand which prevented the Petitioner from getting the documents under RTI, which was dismissed on 17.12.2019 and against which CrI. Rev.P. 201/2020 was dismissed by Sessions Court and CrI. M.C. 47/2024 was dismissed by this Court on 04.01.2024. The argument is that there is no concealment in the counter-affidavit and it is proved that Petitioner is habitual of making frivolous allegations against senior officers of NTPC as also that the writ petition was dismissed by the Court on delay and laches and after examining the merits of the case set up by the Petitioner.

21. In my view, there is substance in the stand of NTPC. Perusal of the judgment passed by this Court on 16.04.2015, dismissing the writ petition shows that the writ petition was dismissed on two-fold grounds: (a) delay and laches; and (b) Petitioner was recruited on direct recruitment basis and was not a case of deputation/foreign service and was thus not entitled to benefits of pay protection, etc. as sought. This application was preferred seven years after the dismissal of the writ petition and in the meantime, judgment dated 16.04.2015 along with order dated 06.10.2015 by which the learned Single Judge reheard the matter, were affirmed by the Division Bench and finally by the Supreme Court. Petitioner has alleged that some crucial documents were concealed by Sh. Navin Kumar. Be it noted that Petitioner had sought most of these documents under the RTI Act, however, the documents were not provided and his First Appeal and Second Appeal under the said Act, were dismissed and W.P. (C) No.3525/2007 against the



said orders was dismissed by this Court on 22.11.2007. Appeal bearing LPA No.14/2008 was also dismissed on 11.01.2008 followed by dismissal of SLP(C) No.27662/2008 by order dated 05.01.2009. Levelling almost similar allegations against two other senior officers for concealing material documents, Petitioner filed complaint case being CT Case No.616232/2016 in the Court of MM, Saket Courts, however, the complaint was dismissed on 17.12.2019 followed by dismissal of Crl. Rev.P. 201/2020 and thereafter dismissal of Crl. M.C. 47/2024 on 04.01.2024. This application is merely an attempt to re-open the judgment dated 16.04.2015. In my view, there is no merit in the application and the same is dismissed.

22. CM APPL. 29353/2023 has been filed by the Petitioner for modification of order dated 27.03.2023 to restore the writ petition to its original position and re-agitate the issues of pay protection etc. As noted above, this writ petition was filed by the Petitioner for a direction to NTPC to appoint the Petitioner in an appropriate grade and revise his pay as per Last Pay Certificate issued by IB, since he was allegedly appointed by NTPC on deputation. Petitioner primarily claimed pay protection. NTPC on the other hand argued that Petitioner was appointed through an open recruitment process and his pay scale was specified in his appointment letter and he was not entitled to pay protection on the basis of the higher pay he was drawing in his parent organisation, i.e. IB. Writ petition was dismissed on 16.04.2015 both on merit and delay and laches, having been filed in 2004, though the cause of action, if any, had arisen in 1983. Petitioner was not present during the hearing when the writ petition was dismissed.

23. Judgment dated 16.04.2015 was challenged before the Division Bench in LPA 326/2015 by the Petitioner but the same was dismissed on



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25.05.2015 as Court was of the view that Petitioner should have moved an application before the learned Single Judge for recalling the order upon showing sufficient cause for non-appearance on 16.04.2015. Petitioner thereafter filed an application being C.M.11099/2015 for re-hearing the writ petition pointing out that inadvertently Petitioner could not appear when the writ petition was decided. This application was dismissed by the learned Single Judge on 06.10.2015. Court was of the view that matter could not be heard again because after a judgment was pronounced on merits, the only method by which it could be re-called was either by a review petition or a challenge before a higher Court. Having so observed, the Court heard the Petitioner and came to a conclusion that there was nothing urged by the Petitioner which could dislodge the judgment dated 16.04.2015 on merits and more so, the writ petition had been dismissed on delay and laches and there was no challenge in the recall application against paragraph 7 of the judgment dealing with the point of limitation and delay.

24. Against order dated 06.10.2015 and judgment dated 16.04.2015, Petitioner filed LPA 840/2015 which was dismissed on 15.12.2015 upholding the view of the learned Single Judge that the writ petition was highly belated. It was held that once NTPC did not give benefit of pay protection as per Last Pay Certificate issued by IB and communicated the said fact to the Appellant in 1996, he ought to have approached the Court immediately and it made no difference if IB later issued a revised certificate in 2002. Even though Appellant may have an arguable point on his last pay drawn with IB being protected, but that would not mean that Appellant could move the Court after he superannuated from service. CM Appl.29040/2015 filed in LPA 326/2015 to revive/restore the appeal was



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also dismissed on the same day in view of the order passed in LPA 840/2015.

25. Significantly, Petitioner filed review petitions and RP No.44/2016 in LPA 326/2015 was dismissed on 01.02.2016 and RP No.21/2016 in LPA 840/2015 was dismissed on 22.01.2016. SLP(C) 8738-8739/2016 against orders dated 15.12.2015 and 01.02.2016 in LPA 326/2015 and order dated 01.02.2016 in RP 44/2016 were dismissed by the Supreme Court on 23.09.2016. SLP(C) 23603-23604/2016 against order dated 15.12.2015 in LPA 840/2015 and order dated 22.01.2016 in RP 21/2016 were dismissed on 05.08.2016. Therefore, it is clear that the judgment of the learned Single Judge dismissing the original writ petition on delay and laches as also on merits was affirmed up to the Supreme Court and the issue stood crystalised and closed.

26. Nonetheless, Petitioner continued his pursuit and six years later filed CM APPL. 26516/2022 *inter alia* for recall of judgment dated 16.04.2015, which was dismissed by this Court on 22.07.2022. Petitioner filed LPA 511/2022 before the Division Bench, which was disposed of as withdrawn on 12.10.2022, with liberty to the Petitioner as sought, to withdraw the review application before the learned Single Judge and in this light Petitioner filed CM APPL. 47365/2022 to withdraw the earlier CM APPL. 26516/2022, which was dismissed on 22.07.2022. On 16.03.2023, this application was adjourned to 04.08.2023. Petitioner thereafter filed CM APPL. 14985/2023 for correction in the order dated 16.03.2023 stating that he had intended to withdraw CM APPL. 47365/2022 and not CRL.M.A. 17986/2022. This application was allowed and resultantly CRL.M.A. 17986/2022 was restored while CM APPL. 47365/2022 was dismissed as



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withdrawn on 27.03.2023. However, the Court while dismissing the said application as withdrawn, observed that withdrawal of CM APPL.26516/2022 was without liberty to the Petitioner to file any application afresh on the same cause of action.

27. Present application being CM APPL. 29353/2023 has been filed for modification of this order and Petitioner now seeks that liberty be granted to pursue his case for restoration of the writ petition and order dated 27.03.2023, declining the liberty be modified. In my view, this application is wholly misconceived. The crux of the application is that Petitioner once again seeks restoration of the writ petition to its original position, which cannot be permitted as the judgment dated 16.04.2015 dismissing the writ petition has attained finality having been upheld by the Supreme Court. Emphasis of the Petitioner on the order of the Division Bench dated 22.10.2022 in LPA 511/2022, basis which he had filed a recall application, cannot inure to his advantage. Liberty to withdraw the recall application being CM APPL. 26516/2022 was liberty in accordance with law and cannot be interpreted to mean that despite the Supreme Court having affirmed the judgment dismissing the writ petition, this Court should permit him to revive the writ petition and re-argue the matter.

28. In view of the aforesaid, there is no merit in the application and the same is, accordingly, dismissed and in light of this order, CM APPL.19257/2024 for amending the relief in the said application is also dismissed.

29. All applications stand disposed of in the aforesaid terms.

JYOTI SINGH, J

JANUARY 29th, 2025/shivam/B.S. Rohella