
(2009) 04 RAJ CK 0079
In the Rajasthan High Court

Bar Council of Rajasthan

APPELLANT

Vs

Parmanand Sharma and Another

RESPONDENT

Date of Decision : 27-04-2009

Acts Referred:

Advocates Act, 1961 — Section 28

Citation : AIR 2009 Raj 120 : (2010) 1 RLW 301

Hon'ble Judges : Kishan Swaroop Chaudhari, J;Asok Parihar, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The appeal is directed against the judgment dated 6-11-1998 passed by the learned single Judge by which, while allowing the writ petition filed by the respondent No. 1, directions have been issued to appellant-Bar Council of Rajasthan to enroll the respondent No. 1 as an Advocate.

2. There is no dispute that having qualification of B.Com., LL.B. the respondent No. 1, while working as Section Supervisor (Legal Cell) was authorized to act for and on behalf of the General Manager (Telecommunications), Jaipur District, Jaipur to appear, act and submit applications on behalf of the aforesaid officer. There is also no dispute that the post of Section Supervisor is in the clerical cadre. Be that as it may, the permission been granted by the department under Rule 15 of the Central Civil Services (Conduct) Rules of 1964, the respondent No. 1 submitted his application for his enrollment as an Advocate before the appellant. The request of the respondent No. 1 was declined by the appellate Court vide order dated 15-2-1991 which came to be challenged before the learned single Judge. Reliance has been placed on Rule 15(10) of the Central Civil Services (Conduct) Rules, 1964 as also the Rules framed u/s 28 of the Advocates Act, 1961 in regard to the conditions for enrollment as an Advocate. Relevant portion of Part 4 of the Rules framed in this regard, is reproduced here as under:

1. A person who is otherwise qualified to be admitted as an advocate but is either in full or part-time service of employment or is engaged in any trade, business or profession shall not be admitted as an advocate:

Provided however that this rule shall not apply to:

(i) Any person who is a Law Officer of the Central Government or the Government of a State or any public corporation or body constituted by a statute.

For the purpose of this clause a "Law Officer" shall mean a person who is so designated by the terms of his appointment and who by the said terms is required to act and/or plead in Courts on behalf of his employer.

3. A bare perusal of the above provisions" would show that only law officer of the Central Government or the Government of a State or any public corporation or body constituted by a statute could be enrolled as an Advocate with certain conditions. The Law Officers have also been defined to mean a person who is so designated by the terms of his appointment and who by the said terms is required to act and/or plead in Courts on behalf of his employer. Admittedly, the respondent No. 1 had never been appointed or even designated as Law Officer by the department concerned at any point of time. There is nothing on record to show that the post of Law Officer does not exist in the department and even an employee in the clerical cadre could be designated as a Law Officer. Even clarification No. 10 in Rule 15 of the Rules of 1964 does not come in any assistance to the respondent No. 1.

4. The relevant clause in regard to clarification in Rule 15 is also reproduced here as under:

(10) Permission to enrol with the Bar Association.- It is clarified that the Government servant can be permitted to enrol himself as an advocate, but should not engage himself in the legal profession either independently or otherwise for so long as he continues in Government service.

5. Under the circumstances though a person may be permitted to enroll himself as an Advocate, however, he could not have engaged himself in the legal profession either independently or otherwise for so long as he continues in the Government Service. The respondent No. 1 never been appointed or designated as Law Officer and only having been given some duties in the legal cell while working as Section Supervisor, could not have been treated as a Law Officer so as to get enrolled with the Bar Council as an Advocate.

6. Having considered entire facts and circumstances, in our opinion, the impugned judgment dated 6-11-1998 passed by the learned single Judge cannot be sustained in the eye of law. Accordingly, the appeal is allowed. The impugned judgment dated 6-11-1998 passed by the learned single Judge is quashed and set aside.