
(2012) 05 DEL CK 0018

In the Delhi High Court

Case No : Writ Petition (C) 1027 of 2010

Mohinder Kumar Verma

APPELLANT

Vs

Ld. District Judge-I and Session Judge, Tis Hazari Courts,
Delhi and Another

RESPONDENT

Date of Decision : 18-05-2012

Acts Referred:

Citation : (2012) 05 DEL CK 0018

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Rajat Aneja and Mr. S. Sethu, for the Appellant; Urvashi Malhotra, for Ms. Avnish Ahlawat, for the Respondent

Judgement

Suresh Kait, J.

W.P. (C) 1027/2010

1. Vide the instant petition, petitioner has sought quashing of order dated 28.10.2010 passed by respondent no. 2, where the right of cross-examination of the petitioner was closed in respect of the witnesses produced by the department. Petitioner had filed an application seeking adjournment on the ground that he had requested the Department to provide legal assistance in the matter, however, that request was declined by the Id. District & Sessions Judge.

2. Being aggrieved, he filed an appeal against the said order before Hon'ble the Chief Justice of this Court on administrative side, however the same was also been declined.

3. Thereafter, Petitioner filed a W.P. (C) no. 13907 on 27.01.2010, after that he submitted before the Id. District & Sessions Judge that the aforesaid Writ Petition not yet been listed for hearing, however, the same is likely to be listed soon and prayed that his Departmental Enquiry be adjourned and be taken only after the Writ Petition is disposed of. Finding no ground to adjourn the enquiry, the

application of the petitioner was dismissed.

4. It is recorded in the impugned order dated 28.01.2010 that CW-3 Prem Narayan Verma has been examined in chief on 03.11.2009. Thereafter, the enquiry proceedings were listed on 19.12.2009 and 06.01.2010, on which dates adjournment was sought by the petitioner. CW-3 has been recalled for cross-examination, however, the petitioner / delinquent official had declined to cross-examine this witness on the ground that his petition is pending adjudication. In that eventuality, the opportunity to cross-examine this witness was closed. Additionally, right to cross-examine CW-4, Ravi Kumar, LDC, Admn.-II, Tis Hazari also been closed.

5. Ld. Counsel for the petitioner, on instruction, submitted that if a Legal Assistant is not possible, then at least he should be given a law graduate because of the fact the Presenting Officer is a Law Graduate, though enrolled with the Bar Council of Delhi, however not a practicing advocate.

6. Orally, on 16.05.2012, respondents were directed to produce a list of the employees working in District Courts, who are Law Graduates. Pursuant thereto, a list of Law Graduates from cadre of Stenographer, UDC/Reader, Sr. Assistant / Reader and Assistant / Reader has been produced and they are around 65 in number.

7. Ld. Counsel on instruction has submitted that opportunity be granted to chose anyone from the list and same shall be conveyed to the Disciplinary Authority / Enquiry Authority.

8. In the facts and circumstances of the case, impugned order dated 28.01.2010 is set aside.

9. On furnishing the details of defence assistant, Enquiry Officer shall give opportunity to the petitioner to cross-examine the above two witnesses i.e. CW-3 and CW-4.

10. Accordingly, Id. District & Sessions Judge, Delhi is directed to spare the said Officer for this purpose.

11. Instant petition stands disposed of on the above terms.

12. Consequently interim order passed on 09.02.2010 in CM No. 2145/2010 and thereafter made absolute vide order dated 08.07.2010 stands vacated.

13. In view of above, CM No. 12137/2010 doesn't require further adjudication and stands dispose of.

14. Parties are directed to appear before the Enquiry Officer on 01.06.2012. Dasti to both the parties.