
(2012) 05 DEL CK 0458

In the Delhi High Court

Case No : Writ Petition (C) 2990 of 2012 and CM No. 6444 of 2012

Prabhat Kumar Singh

APPELLANT

Vs

Army College of Medical Sciences and Others

RESPONDENT

Date of Decision : 31-05-2012

Acts Referred:

Citation : (2012) 05 DEL CK 0458

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Praneet Ranjan, with Mr. Manish Kumar, for the Appellant; R. Balasubramaniam, with Col. A. Sanyal, Administrative Officer, Mr. Satya Saharawat, for Mr. Ankur Chhibber, for UOI, for the Respondent

Final Decision : Disposed Off

Judgement

Hima Kohli, J.—This order is in continuation of the order dated 30.05.2012 whereunder after noting the facts of the case and the submissions made by counsels on both the sides, it was deemed appropriate to call upon the respondents to produce the letter dated 25.04.2012 addressed by respondents No.1 and 4/College to respondent No.5/University for perusal. Today, Mr.Talwar hands over a set of documents, including the letter dated 25.04.2012 under index dated 31.05.2012 with copies to both the sides. The same is taken on record.

2. A perusal of the aforesaid letter dated 25.04.2012 shows that

the respondent No.1/College had forwarded to the respondent No.5/University, a copy of the Court of Inquiry proceedings along with the remarks of the officiating Dean and photocopy of a letter dated 13.04.2012 addressed by the College to the SHO, Naraina. It had also informed the respondent No.5/University that the Court of Inquiry had found that the petitioner had forged the signatures, stamps and seal of the Training Officer on the scholarship application form for which he has received a scholarship of ` 55,000/- from the respondent No.5/University and

that a Disciplinary Committee was being convened.

3. On a pointed query addressed to the learned counsel for respondents No.1 and 4 as to whether the procedure prescribed for conducting the proceedings before the Disciplinary Committee had been followed in the present case by affording an opportunity to the petitioner to cross examine such of the witnesses who had deposed before the Committee, learned counsel states that witnesses were not produced before the Disciplinary Committee for deposition and rather, the Disciplinary Committee had relied on the proceedings that was held before the Court of Inquiry and that in those proceedings, three witnesses had deposed, namely, Dr.Sapna Pradhan, Hav.Clk. Padma Ram Bhakhar and Subedar S.R.Sharma.

4. The Rules and Regulations for the Army College and Institutions as prescribed by the Army Welfare Education Society have also been handed over by learned counsel for the respondents No.1 & 4. Chapter 10 of the Rules deals with the discipline of students, and the procedure prescribed for the proceedings to be held by the Disciplinary Committee for students mandates that the Committee will hear and record evidence.

5. In the present case, admittedly, the evidence was neither taken nor recorded by the Disciplinary Committee as it chose to rely upon the evidence recorded before the Court of Inquiry. It is not denied by the respondents No.1 and 4 that in the course of the proceedings that were held before the Court of Inquiry, the petitioner was not afforded an opportunity to cross examine any of the aforesaid three witnesses, who had made depositions.

6. As a result, it has to be held that the impugned order dated 10.05.2012 expelling the petitioner came to be passed without following the procedure prescribed in the Rules and Regulations of the Army Welfare Education Society. In such circumstances, the proceedings of the Disciplinary Committee stand vitiated and, consequently, the impugned orders also stand vitiated.

7. At this stage, learned counsel for respondents No.1 and 4 fairly states, on instructions, that the respondents would have no objection if the matter is remanded back to the Disciplinary Committee for the proceedings to commence from the stage at which the recording of evidence shall take place and the petitioner shall be permitted to cross examine the witnesses who were summoned before the Court of Inquiry and had deposed.

8. Learned counsel for the petitioner submits that in the meantime, the internal examinations of the VIII term are to commence from 11.06.2012 to 20.06.2012 and that the proceedings of the Disciplinary Committee may be deferred till after 20.06.2012 to enable the petitioner to prepare for and appear in his theory and practical examinations.

9. In view of the aforesaid facts and circumstances, it is deemed appropriate to allow the writ petition and set aside the two impugned orders, both dated

10.05.2012 and pass the following directions:-

- i. The Disciplinary Committee constituted by the respondents No.1 and 4 shall re-commence its proceedings from the point where the same had been left by affording an opportunity to the petitioner to depose as also cross examine the witnesses who were produced by the College before the Court of Inquiry after a copy of the deposition made by the witnesses is furnished to him.
- ii. The petitioner shall also be afforded an opportunity of addressing submissions before the Disciplinary Committee after conclusion of evidence.
- iii. The proceedings of the Disciplinary Committee shall commence after 20.06.2012, to enable the petitioner to prepare and appear for his internal examinations, which are to commence from 11.06.2012.
- iv. The petitioner will be permitted to enter the premises of respondent No.1/ College for the purpose of appearing in the examinations. For the purposes of enabling him to appear for his practical examinations, the respondent No.1 shall permit the petitioner access to the hospital at least one week before the commencement of the practical examinations.
- v. The petitioner shall co-operate in the completion of the proceedings before the Disciplinary Committee without seeking any unnecessary adjournments.
- vi. The result of the internal examinations for which the petitioner is permitted to appear shall be placed in a sealed cover and shall be subject to the decision taken by the Disciplinary Committee.
- vii. The recommendations of the Disciplinary Committee shall be communicated to the petitioner along with the copy of the minutes drawn, within one week from the date the Committee concludes its hearing. Thereafter, the respondent No.4 shall take a decision on the recommendations of the Disciplinary Committee and intimate the same to the petitioner within a reasonable time. In case the petitioner is aggrieved by the decision that shall be taken by the respondent No.4, he shall be entitled to seek his remedies in accordance with law.

The petition is disposed of, along with pending application.

Dasti.