

(1996) 03 SHI CK 0003
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 1426 of 1996

Ramesh Kumar Chauhan

APPELLANT

Vs

Bar Council of H.P.

RESPONDENT

Date of Decision : 18-03-1996

Acts Referred:

Citation : (1997) 2 ShimLC 313

Hon'ble Judges : M. Srinivasan, C.J.; L.S. Panta, J

Bench : Division Bench

Advocate : Kuldip Singh, for the Appellant; Rajiv Sharma, for the Respondent

Final Decision : Dismissed

Judgement

M. Srinivasan, J.—Though the Petitioners are different in these cases, the facts are similar. The Petitioner in each of these cases was enrolled as advocate. The Petitioner in C.W.P. No. 1427/96 was enrolled on 2-11-1981. The Petitioner in C.W.P. No. 1426/96 was enrolled on 3-12-1984. The Petitioner in C.W.P. No. 1428/96 was enrolled on 27-5-1986. Thereafter, they were appointed as Law Officers in the Himachal Pradesh State Electricity Board (hereinafter referred to as the Board) on different dates in 1989. They informed the Respondent about their appointment as Law Officers. While the Petitioner in C.W.P. No. 1426/96 by his representation dated 13-6-1990 requested the Respondent to protect his right to be an advocate on rolls and continue his licence as an advocate with retrospective effect from the date of his joining as Law Officer in the Board, the other two Petitioners had intimated the Bar Council suspending their practise voluntarily with effect from the dates of appointments. The said suspension of practise was notified by the Respondent on 19-3-1990 under notification No. BCHP/1-74/141-230/90. However, when they were requested by the Board to act and plead as advocates in Courts on behalf of the Board, they requested the Respondent to protect their rights as advocates and continue their licences as such with retrospective effect from the date of their joining as Law Officers in the Board.

2. By the decision dated 21-4-1991 the Respondent rejected the applications of all the three Petitioners. The Petitioners preferred an application for review to the Chairman of the Respondent on 23-4-1991. By a communication dated 8-9-1993, the Respondent required the Petitioners to appear before its Special Committee on 28-9-1993. Ultimately, the Respondent passed a Resolution unanimously on 12-5-1996 rejecting their application for review. In the same resolution the Respondent had considered the case of Shri Satish Kuniar Sharma and decided to withdraw the enrolment granted to him earlier in 1984. In fact, the Petitioners herein placed reliance on the enrolment of Shri Satish Kumar Sharma in support of their case. By virtue of the aforesaid resolution, the prayer of the Petitioners to protect their rights as advocates and continue their licences with retrospective effect from the date joining as Law Officers in the Board was rejected.

3. The aggrieved Petitioners have preferred these writ petitions individually. We have today by a separate judgment dismissed the writ petition of Shri Satish Kumar Sharma. We have dealt with the contentions raised by him at length in support of his claim for entitlement to be enrolled as an advocate. We have found that he was a full time salaried employee of the Board even before he got enrolled as an advocate and at the time when he applied for enrolment he was not entitled to get enrolled in view of his being a full time salaried employee of the Board. The only difference on the facts between the Petitioners herein and the said Shri Satish Kumar Sharma is that he became a full time salaried employee of the Board in the first instance and thereafter applied for enrolment as an advocate, whereas the Petitioners herein were already practicing advocates and thereafter became full time salaried employees of the Board. Two of the Petitioners had intimated the Respondent as required by Rule 49 of the rules framed by the Bar Council of India u/s 49(1)(c) that, they had suspended the practise from the date of their employment in the Board. All the contentions which were urged on behalf of Shri Satish Kumar Sharma were again urged before us in these three writ petitions. As we have rejected all of them after a detailed discussion in our judgment in C.W.P. No. 1232 of 1996, Shri Satish Kumar Sharma v. Bar Council of H.P., it is unnecessary for us to repeat the reasoning in this judgment. It is sufficient to point out that the reasoning in our judgment in C.W.P. No. 1232 of 1996 will apply in these writ petitions also and the contention urged on their behalf have to fail.

4. However, the situation in these writ petitions is slightly different on account of the circumstances that these Petitioners were already enrolled and practising as advocates before they got employed under the Board. In so far as these writ Petitioners are concerned, they fall squarely within Rule 49 of the rules of the Bar Council framed u/s 49(1)(c) of the Act. They have rightly (bearing C.W.P. No. 1426/96) intimated the factum of their employment to the Respondent and cesser of practise. On such intimation, the provisions of Rule 5 of the rules framed u/s 49(1)(ah) of the Act would come into play. The Petitioners herein ought to have sent their certificates of enrolment in original along with the

intimation of suspension of practise. The materials on record do not disclose whether the Petitioners had sent their original certificates of enrolment to the Respondent as required by the above rule. If they have not done so, the Respondent shall call for the same and it is the duty of the Petitioners to send those certificates to the Respondents so long they continue to be in employment. If the employment comes to an end at any point of time, it is for the parties to act in accordance with Sub-rules (2) to (4) of Rule 5 of the rules framed u/s 49(1) (ah) of the Act.

5. It is needless to add that the Petitioners cannot invoke the benefit of the second paragraph of Rule 49 of the rules framed u/s 49(1)(c) as there is no rule framed by the Respondent u/s 28(2)(d) read with Section 24(1)(e) of the Act entitling them to be enrolled.

6. In the circumstances, the writ petitions are without any merit and they are hereby dismissed. There will be no order as to costs.