

(2009) 12 DEL CK 0040

In the Delhi High Court

Case No : Review Petition 498 of 2009 and CM 16215 of 2009 in Writ Petition (C) 13736 of 2009

Vinod Kumar Mantoo

APPELLANT

Vs

High Court of Delhi

RESPONDENT

Date of Decision : 22-12-2009

Acts Referred:

Delhi Higher Judicial Services Rules, 1970 — Rule 3

Citation : (2009) 12 DEL CK 0040

Hon'ble Judges : Veena Birbal, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Alok Singh, for the Appellant; Chetan Lokur, for Viraj R. Datar, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.—This review petition has been filed by the petitioner seeking review of our judgment and order dated 09.12.2009 whereby his writ petition was dismissed. In particular, the learned Counsel for the review petitioner has drawn our attention to the paragraph 10 of the said decision which is quoted hereunder:

Apart from this, we also make it clear that the said rules, which are sought to be invoked by the petitioner for seeking relaxation, are only in respect of the Central Civil Services and posts there under. Rule 6 of the said Rules makes it clear that they are applicable in respect of recruitment of persons to Central Civil Services and posts including those in the Indian Audit and Accounts Department and the rules governing competitive examinations there for. The said Rules do not extend to judicial services and certainly not to the Delhi Higher Judicial Service. For all these reasons the writ petition has no merit and is dismissed. No order as to costs.

2. According to the learned Counsel for the petitioner, The Residents of Kashmir

Division in the State of Jammu & Kashmir (Relaxation of Upper Age Limit for Recruitment to Central Civil Services and Posts) Rules, 1997 (hereinafter referred to as "the said Rules") would apply to the Delhi Higher Judicial Service also. His argument is that the Rule 6 of the said Rules pertains to persons recruited to Central Civil Services and Posts including those of Indian Audit and Accounts Department. The learned Counsel for the petitioner places reliance on Rule 3 of the Delhi Higher Judicial Service Rules, 1970. Rule 3 of the Delhi Higher Judicial Service Rules, as applicable at present, reads as under:

3. Constitution OF THE SERVICE:- (a) On an from the date of commencement of these rules, there shall be constituted a Civil Service to be known as the Delhi Higher Judicial Service.

(b) The posts included in the Service shall be Central Civil Posts, Group "A"., Gazetted.

3. On reading the above Rule, the learned Counsel for the petitioner submitted that the posts in Delhi Higher Judicial Service are to be regarded as Central Civil Services Posts, Group A, Gazetted, and, therefore, Rule 6 of the said Rules would clearly apply to Delhi Higher Judicial Service also.

4. However, the learned Counsel appearing on behalf of the High Court of Delhi drew our attention straightway to Rule 2 of the said Rules which clearly negates the submission made by the learned Counsel for the petitioner. The said Rule 2 reads as under:

2. Application - These rules shall apply to all Central Civil Services and Posts recruitment to which are made through the Union Public Service Commission or the Staff Selection Commission or otherwise by the Central Government.

5. A plain reading of the said Rule 2 makes it clear that the said Rules would apply to all Central Civil Services and Posts, recruitment to which are made through Union Public Service Commission or the Staff Selection Commission or otherwise by the Central Government. As per the Delhi Higher Judicial Service Rules, recruitment to Delhi Higher Judicial Service is to be made by the Administrator on the recommendation and/or consultation with the High Court. This is clear from rules contained in Part-III which deals with "method of recruitment.. The recruitment to the Delhi Higher Judicial Service is neither made through Union Public Service Commission nor the Staff Selection Commission nor otherwise by the Central Government. Therefore, the said Rules are clearly inapplicable to the Delhi Higher Judicial Service.

6. There is no merit in this review petition. The same is dismissed.