

# Dr. Lokesh Sharma vs Union Of India & Anr on 24 September, 2020

**Author: Jyoti Singh**

**Bench: Jyoti Singh**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 6928/2020

DR. LOKESH SHARMA

Through

..... Petitioner  
Mr. Akhand Pratap Singh and Mr.  
Bahul Kalra, Advocates.

versus

UNION OF INDIA & ANR.

Through

..... Respondents  
Mr. Siddharth Khatana, Sr. Panel  
Counsel for R-1.  
Mr. Yashpal Singh and Mr. Atryee  
Gautam , Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH  
ORDER

% 24.09.2020 Hearing has been conducted through Physical Court. CM No. 23759/2020 (Exemption) Allowed, subject to all just exceptions.

Application is disposed of.

W.P.(C) 6928/2020 & CM No. 23758/2020 An advertisement was issued on 10-16.12.2016 by the Delhi Public Library (DPL), an Autonomous Body under the aegis of the Ministry of Culture, for the appointment to the Post of Director General (DG) in the DPL in Pay Band-IV with Grade Pay Rs. 10,000/- on deputation (including short term contract)/contract basis.

Petitioner applied under the said Advertisement and was appointed as DG in DPL on 13.10.2017. Petitioner accepted the appointment and reported for duty on 24.10.2017. Due to certain personal reasons, on 23.08.2019, Petitioner submitted his resignation to the Chairman, Delhi Library Board (DLB), which was duly accepted.

On 28.10.2019 a Memorandum was issued alleging financial and administrative irregularities against the Petitioner and a reply was sought from the Petitioner.

On 19.12.2019 an order was issued by the Chairman of DLB exercising powers under Rule-9(2)(b) of Central Civil Services (Pension) Rules, 1972 and the Chairman DLB accorded sanction for

conducting departmental proceedings against the Petitioner and directing inquiry in accordance with the procedure laid down in CCS (CCA) Rules, 1965.

Petitioner filed a detailed reply on 20.01.2020 in response to the said Memorandum wherein he categorically stated that he was employed on contractual basis and his employment was not governed by the Central Civil Rules but was governed by the terms of his contract contained in the letter dated 13.10.2017. He further stated that employer-employee relationship ceased to exist and no disciplinary action could have been initiated against him.

Another Memorandum dated 10.02.2020 was received by the Petitioner whereby he was informed that his appointment as DG on contract basis was only because he had an experience of working with Delhi University/Ratan Tata Library and was an ex-employee of Delhi University. Being a pensioner from the Delhi University, he was amenable to the CCS (Pension) Rules and therefore the charge memorandum had been rightly issued.

After extensive correspondence between the Petitioner and the office of the DPL, an order was issued on 07.08.2020 whereby Inquiry Authority has been appointed to enquire the charges levelled against the Petitioner. Petitioner in his reply dated 23.08.2020, again raised an objection to the applicability of CCS (Conduct) Rules, 1964 and CCS (Pension) Rules, 1972.

Learned counsel for the Petitioner submits that the Petitioner superannuated from Delhi University in the year 2016. The appointment as DG in DPL was against the fresh advertisement, seeking applications on deputation/contract basis. His offer letter and terms of employment clearly reflect that the nature of the appointment was purely contractual for a period of three years from the date of assumption of charge or until further orders.

Learned counsel draws the attention of the Court to a letter dated 08.09.2020 which is impugned herein, whereby the Inquiry Authority has directed the Petitioner to remain present on 24.09.2020 i.e. today, at 12:00 PM in the library, for preliminary hearing. It is also mentioned in the letter that no witnesses will be examined on the said date and the purpose of the preliminary hearing is to sort out the preliminaries and to lay down a time schedule for inspection of the documents and submission of the additional documents and defence witnesses, if any. It is argued that the CCS (Pension) Rules do not apply to the Petitioner being a contract appointee and thus the initiation of the Inquiry under Rule 9 is per se illegal and the proceedings deserve to be stayed.

Mr. Yashpal Singh who appears on behalf of DPL on advance copy of the Petition, submits that the memorandum of charge has been rightly issued and pursuant thereto, the Inquiry Authority has been rightly appointed invoking Rule-9(2)(b)(ii) of the CCS (Pension) Rules. He submits that the Petitioner is an ex-employee of the Delhi University and therefore a pensioner. He further submits that the Petitioner was appointed with the DPL only on the basis of his experience with the Delhi University.

He also draws the attention of the Court to the letter dated 21.04.2017 to argue that before appointing the Petitioner, his vigilance clearance as well as information regarding any penalty or

contemplated proceedings against him was sought. He therefore submits that for all purposes, the Petitioner is covered under the CCS (Conduct) Rules as well as a pensioner and thus the inquiry has been correctly initiated under Rule 9 of the CCS (Pension) Rules.

Having perused the provisions of Rule-9 (2)(b)(ii) and Rule 2 of CCS (Pension) Rules as well as the advertisement which is purely for appointment on deputation or on contract basis, I am of the prima facie opinion that the Petitioner having been appointed on a contract basis for a term of three years will not be governed by the provisions of CCS (Pension) Rules. The alleged charges are with respect to his tenure at the DPL and not for the period he was an employee of the University. Thus, his being a pensioner of the University cannot be of any avail to the Respondent.

Issue notice.

Mr. Siddharth Khatana accepts notice on behalf of Respondent No. 1/UOI.

Mr. Yashpal Singh accepts notice on behalf of Respondent No. 2/DPL. He seeks a period of two weeks to file counter affidavit.

Counter affidavits be filed within a period of two weeks from today. Rejoinders, if any, be filed within a period of one week thereafter.

Till the next date of hearing, further proceedings pursuant to the Memorandum dated 19.12.2019 shall remain stayed.

List on 14.10.2020.

JYOTI SINGH, J SEPTEMBER 24, 2020 yo