

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No.3766/2013 & C.M.No.7053/2013 (stay)**

% **May 30, 2013**

SHRI ARVIND KUMAR Petitioner

Through: Mr. Ram Parkash Gupta, Advocate.

VERSUS

ED CIL (INDIA) LTD. AND ANR. Respondents

Through: Mr. R.K. Mishra, Advocate for
respondent No.2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. In this writ petition, the petitioner states that originally the 1985 Rules of the respondent No.1 applied with respect to departmental proceedings and which were substituted thereafter by the 2003 Rules and then by 2008 Rules. It is argued that in the earlier Rules as compared to the Rules of 2008 there was a provision for appointing of a Defence Assistant by a charged official of an officer who is not an employee of respondent No.1-organization. It is argued that once such Rules existed when the petitioner was appointed, respondent No.1 cannot take

away vested rights by framing rules subsequently and as framed in the year 2008 that the Defence Assistant of a charged official will only be an employee of the employer-organization.

2. In my opinion, the arguments are misconceived for the reason that with respect to procedural aspects there are no vested rights. The Rules in question only talk of representation of a charged official. There is no illegality or constitutional infraction by having a Rule which requires the charged official to be represented by an officer of the department. In the present case, Rules are of the year 2008 and the enquiry has commenced subsequently in terms of the Memorandum dated 15.10.2012. The procedural Rules therefore which will apply will be the Rules as prevalent in October, 2012. Since in October, 2012 as per the extant Rules, the petitioner can only be represented through an employee of an organization as a Defence Assistant, the writ petition therefore seeking relief of appointment of an officer or a person from outside the respondent No.1-organization is misconceived.

3. The argument that 2008 Rules have been framed without permission of the parent ministry and which is respondent No.2 in the present case being the Ministry of Human Research Development, is also a misconceived argument inasmuch as nothing has been pointed out to me why an independent organization

for framing of its Rules or changing of its Rules requires prior permission of the parent ministry.

4. In view of the above, there is no merit in the petition, which is accordingly dismissed, leaving the parties to bear their own costs.

MAY 30, 2013
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VALMIKI J. MEHTA, J.