

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

+ **W.P.(C) No.6895 /2014**

% **5th May, 2015**

SH. MANOJ MALHOTRA Petitioner

Through: Mr.Sourabh Leekha with Mr.Kapil
Dua, Advocates.

versus

UNIVERSITY OF DELHI Respondent

Through: Mr.Mohinder J.S.Rupal, Advocate

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Counter affidavit in this case was filed by the contesting respondent/University of Delhi way back in February, 2015, but till date, no rejoinder has been filed. Time for filing the rejoinder is closed. As the facts will demonstrate, there ought not to be granted further time for filing the rejoinder.

2. By this writ petition filed under Article 226 of the Constitution of India, petitioner, who had worked on contractual basis as a Technical Assistant with the Department of Germanic and Romance Studies of the respondent till 31.12.2013, seeks the relief that he should be entitled to the monetary

emoluments after the end of the contract period since he continued to work with the respondent in this period from 01.1.2014 till 30.5.2014. There is also a relief prayed that the petitioner should be re-appointed to his post with back wages. So far as the second relief is concerned, that relief was given up and as recorded in the order of a learned Single Judge of this Court dated 05.12.2014. The issue therefore is whether the petitioner had worked with the Department of Germanic and Romance Studies of the respondent from 1.1.2014 to 30.5.2014 and also if the same was pursuant to a direction of any competent authority.

3. The petitioner along with the writ petition has filed the photocopy of the Attendance Register showing the attendance in the month of January, 2014, and which is filed as Annexure P-10(Colly) at page 72 of the paper book, however, from page 75 onwards, the attendance is found not to be recorded in the regular Attendance Register but only in certain rough pages allegedly used for marking attendance. Admittedly the sheets filed are not of the Attendance Register of the concerned department of the respondent. It may be noted that the respondent has along with its counter affidavit filed as Annexure A-2(Colly) copies from the actual Attendance Register of the concerned department of the respondent, and which shows that there is no attendance of the petitioner after February, 2014 and till 30.5.2014, and for which period the

petitioner claims monetary emoluments claiming to have worked in the concerned department of the respondent.

4. It is also required to be stated that the petitioner seeks to place reliance upon two letters dated 27.5.2014 and 05.6.2014 sent by him to the head of the concerned department, and as per the petitioner, these letters since have not been replied to, the contents thereof should be read in favour of the petitioner that the petitioner has worked in the concerned department of the respondent, and is therefore entitled to monetary emoluments for the period from 01.1.2014 till 30.5.2014. Petitioner also places reliance upon the letter of the Head of the Department issued to the Registrar seeking extension of the petitioner as a Technical Assistant beyond 31.12.2013, and this letter of the Head of the Department is dated 03.3.2014.

5. In my opinion, the writ petition does not have merits, inasmuch as, petitioner could only have got the monetary emoluments for working if he was asked by the competent authority in the respondent to work. Merely because the petitioner may have chosen to go to the department to work, and in which his sister is also stated to be working, and merely assuming for the sake of arguments that the Head of the Department allowed the petitioner to work, the same will not entitle the petitioner to monetary emoluments because this would amount to giving employment in a university/government organization

without the competent authority extending the contractual appointment of the petitioner beyond 31.12.2013. The fact that no attendance is marked of the petitioner from February, 2014 shows that the petitioner did not even work after 1.2.2014. Non-reply to letters of the petitioner cannot mean that petitioner will be deemed to be legally employed and should be held to have legally worked in the concerned department of the respondent from 01.1.2014 to 30.5.2014. If the petitioner chooses to go to the department without actual employment or without the Head of the Department addressing a letter to him directing him to work or without the competent authority addressing a letter to him asking him to work, then though the petitioner can keep on working till the issue of his extension in one way or the other is sorted out, he would do so at his own risk, and this will not entitle the petitioner to claim monetary emoluments. If I allow these types of petitions, then the same will result in the situation that the government monies will be at stake by making payments to such persons, who have not been authorized to work by extending the term of their contract or they in the very least have been directed by letters of the competent authority or the concerned Head of the Department of the respondent/University to keep on working till the issue of extension is sorted out.

6. At this stage, learned counsel for the petitioner points out that the respondent/University admits in the counter affidavit that the petitioner has worked till 29.1.2014, and the respondent is ready to pay monetary emoluments to the petitioner till 29.1.2014, and therefore it is ordered that the petitioner will be entitled to be paid from 01.1.2014 till 29.1.2014, but not thereafter.

7. In view of the above, the writ petition is dismissed except to the extent of granting limited relief to the petitioner for the respondent/University to pay monetary emoluments to the petitioner for the period of work from 01.1.2014 till 29.1.2014. The respondent/University will now pay the amount due as per this judgment to the petitioner positively within a period of six weeks from today along with interest @ $7\frac{1}{2}$ % per annum simple from 01.2.2014 till date. No costs.

MAY 05, 2015
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VALMIKI J. MEHTA, J.