

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

+ W.P.(C) No. 14028/2009

% **14th January , 2015**

DR. BANSIDHAR BARIKPetitioner
Through: Mr. M.C.Dhingra, Adv.

VERSUS

INDIAN COUNCIL OF PHILOSOPHICAL RESEARCH AND ORS.
..... Respondents
Through: Mr. Rajeev Sharma and Mr. Sahil
Bhalaik, Advocates.

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

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Learned counsel for the petitioner prays for an adjournment but considering the order of the Registrar which is reproduced below, I do not find it a case for adjournment inasmuch as counsel is not a new counsel but is the counsel who was the counsel who has filed the writ petition itself. Also, the counsel himself admits that the petitioner is not contacting him for some time now.

2. On 9.1.2015 the Registrar has passed the following order and listed the matter before this Court:-

“ Counter affidavit on behalf of respondent Nos. 1 to 4 has already been filed. However, rejoinder thereto has not been filed by the petitioner despite opportunity granted on 08.12.2014. It is noticed that there has been no appearance on behalf of the petitioner on 08.01.2014, 16.04.2014, 26.08.2014, 30.10.2014 and 08. 12.2014 and even today nobody has appeared on behalf of the petitioner despite the matter having been passed over once. The matter is fixed before the Hon’ble Court on 14.01.2015.

Issue court notice to counsel for the petitioner as well as to the petitioner without process fee, returnable on the date already fixed before the Hon’ble Court i.e.14.01.2015.”

3. Petitioner’s services while serving on probation with the respondent no.1 were terminated pursuant to the recommendations of a Committee dated 5.12.2009. Petitioner was appointed in terms of the letter dated 20.12.2007 of the respondent no.1/employer, para 1 of which states that petitioner will be on probation for a period of two years. Therefore, it is during the period of probation that petitioner’s services have been terminated effectively thereby petitioner’s services were terminated holding that he should not be confirmed in service.

4. The law with respect to disentitlement of a probationary officer to question the decision of the employer not to continue with the services is

now well settled because it is the employer who is best suited to decide the suitability of a probation officer. It is also settled law that before terminating the services of a probation officer, principles of natural justice are not required to be followed vide *Rajesh Kumar Srivastava Vs. State of Jharkhand & Ors. (2011) 4 SCC 447* and *Muir Mills of Unit NTC (U.P) Ltd. Vs. Swayam Prakash Srivastava & Anr. (2007) 1 SCC 491*.

5. In view of the above, not only the petitioner is guilty of non-prosecution and non-appearance on repeated dates, even on merits petitioner has no case because a probation officer can always be terminated during the period of probation and courts do not substitute their opinion with the employer to decide the suitability of an employee unless there is perversity amounting to gross arbitrariness, and which is not found in the present case.

6. Dismissed.

JANUARY 14, 2015
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VALMIKI J. MEHTA, J.