

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION NO.42701 OF 2017

ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

The relief sought for in this Writ Petition is to declare the proceedings of the first respondent dated 11.12.2017, informing the petitioner that his request for engaging the service of legal practitioner to defend him was rejected, as arbitrary and illegal.

Sri S.Ashok Anand Kumar, learned counsel for the petitioner, would submit that, while an earlier Division Bench of the Supreme Court in **Dinesh Chandra Pandey v. High Court of Madhya Pradesh**¹ had held that a sitting District Judge, who is appointed as the presenting officer in a disciplinary proceedings initiated against a Judicial Officer, is not a legal practitioner and, hence, the delinquent-Judicial Officer is not entitled to be represented by an advocate, subsequently another Division Bench of the Supreme Court, in **Ramesh Chandra v. Delhi University**², held that, in cases where the enquiry officer is a retired Judge, the delinquent employee is entitled to be defended by a legal practitioner.

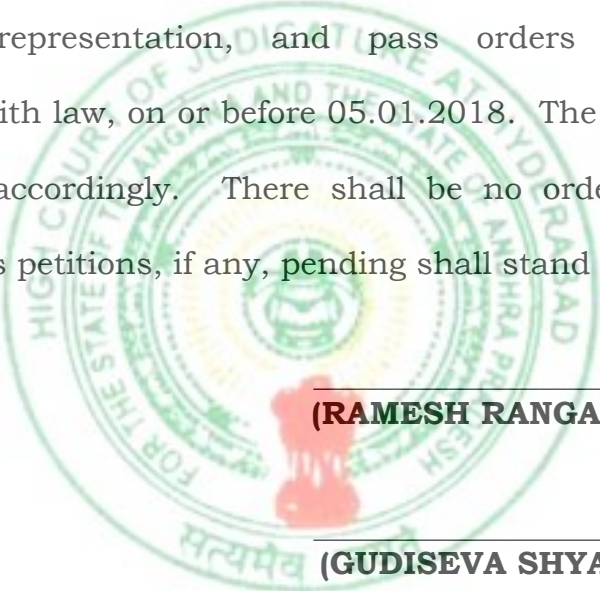
While the petitioner cannot claim assistance of a legal practitioner as of right, the law declared by the Supreme Court in **Ramesh Chandra**² does appear to support the submission of the learned counsel for the petitioner that, in cases where the enquiry office is a Judge (retired or otherwise), the delinquent employee is entitled to be represented by an Advocate.

¹ (2010)11 SCC 500

² (2015)5 SCC 549

We consider it appropriate, in such circumstances, to set aside the impugned order and permit the petitioner to submit a representation to the first respondent again seeking permission to be represented by an advocate in the departmental enquiry. Sri S.Ashok Anand Kumar, learned counsel for the petitioner, submits that the enquiry proceedings have now been deferred to 06.01.2018, and that the petitioner would make a representation by 30.12.2017.

Since the enquiry is now scheduled to be held on 06.01.2018, the first respondent is requested to consider the petitioner's representation, and pass orders thereupon in accordance with law, on or before 05.01.2018. The Writ Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.



(RAMESH RANGANATHAN, ACJ)

(GUDISEVA SHYAM PRASAD, J)

27th December 2017

NOTE: Issue CC by tomorrow
B/O
RRB