

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

(118)

**CWP-3435-2023**  
**Date of decision:- 01.03.2023**

**Deepak Dogra**

**...Petitioner**

**Versus**

**State of Punjab and another**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Sandeep S. Majithia, Advocate  
for the petitioner.

Mr. Rohit Bansal, Senior DAG, Punjab

Mr. Aditya Jain, Advocate and  
Mr. Rahul Vohra, Advocate.

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**SUVIR SEHGAL, J. (Oral)**

Petitioner is aggrieved by order dated 01.02.2023, Annexure P-7, whereby application filed by him for engaging an advocate/legal practitioner in the departmental enquiry pending before learned Additional District & Sessions Judge-cum-Additional Principal Judge, Family Court, Ludhiana has been dismissed.

Vide order dated 22.02.2023, this Court requested Mr. Aditya Jain, Advocate to assist in the matter.

Facts are not in dispute.

Petitioner, who is a Process Server, was deputed in the Judicial Record Room, Ludhiana when an FIR bearing No.44 dated 28.02.2022 was registered under Section 380 of the Indian Penal Code, 1860 at Police

Station Division-5, Police Commissionerate Ludhiana, Annexure P-1, on the allegation of a theft of an official computer. Subsequently, it transpired that a judicial file of case bearing case titled Hardeep Singh Versus Pritpal Singh was also stolen, which was recovered from the custody of the accused. Petitioner was arrested on 01.03.2022 and by order passed on 04.03.2022, Annexure P-3, he was placed under suspension. Charge was framed against the petitioner in the criminal case. Petitioner has approached this Court by filing a petition challenging the dismissal of his application seeking alteration of charge and by order dated 23.12.2022, Annexure P-2, this Court stayed further proceedings before the Trial Court. Petitioner was served with charge-sheet dated 27.05.2022, Annexure P-4 under Rule 8 of Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short “1970 Rules”) and disciplinary proceedings were initiated against him. He filed an application dated 06.01.2023, Annexure P-5, seeking permission for engaging a legal practitioner which, after contest, has been rejected by order impugned herein.

Counsel for the petitioner has placed reliance upon judgment of the Supreme Court in ***Professor Ramesh Chandra Versus University of Delhi & Ors. (2015) 5 SCC 549*** to submit that where a person, who is or was a legal practitioner, including a retired Hon’ble Judge is appointed as an enquiry officer, denial of assistance of a legal practitioner to a charged employee would be unfair.

Prayer has been opposed by the counsel representing the respondents.

Counsel for the parties have been heard.

In so far as the engagement of a legal practitioner to assist a delinquent employee is concerned, the relevant provision has been laid down in Sub Rule 8 of Rule 8 of the 1970 Rules, which is reproduced as under:-

*“(8) The Government employee may take the assistance of any other Government employee or a retired Government employee to present the case on his behalf, but may not engage a legal practitioner, or the punishing authority having regard to the circumstances of the case, so permits.”*

This Rule came up for interpretation before this Court in ***K.B.Rai Versus State of Punjab, Law Finder DocID # 22726*** and it was held as under:-

*“A plain reading of the above quoted provision shows that ordinarily a Government employee is entitled to take assistance of any other Government employee or a retired Government employee but he cannot engage a legal practitioner. However, if the Presenting Officer appointed by the punishing authority is a legal practitioner, the Government employee has a right to seek assistant of a legal practitioner. Discretion has also been conferred on the punishing authority to permit a Government employee to take assistance of a legal practitioner in particular circumstances of a case.”*

Although, counsel for the petitioner has urged that the presenting officer, who is the Reader of the Court, has vast experience in conducting departmental proceedings and is a trained hand, but when asked to

substantiate, he was not able to refer to any averment in the writ petition. In any case, the above reproduced Rule specifically bars the engagement of a legal practitioner and a discretion has been given to the enquiry officer to allow the assistance of a legal practitioner in case the circumstances so warrant. The judgment referred to by counsel for the petitioner is, therefore, not applicable to the facts of the present case.

This Court does not find any reason to interfere with the order passed by the disciplinary authority.

Petition be meritless, is hereby, dismissed.

This Court appreciates the valuable assistance rendered by Mr. Aditya Jain, Advocate.

01.03.2023  
*Kamal*

(SUVIR SEHGAL)  
JUDGE

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |