



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

% ***Date of decision: 19th July, 2024***

+ **W.P. (CRL.) 3044/2017 & CRL.M.A. 14127/2021**

COURT ON ITS OWN MOTION

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Through: Mr. Ramesh Gupta, Sr. Advocate
with Mr. Ashish Dixit, Mr.
Shailendra Singh, Mr. Harsh
Choudhary, Mr. Ishaan Jain and
Mr. K.R. Dogra, Advocates for
Delhi Prosecutors Welfare
Association (DPWA) (Intervener)
with Mr. Maqsood Ahmed,
President (DPWA), Mr. Kumar
Sanjay, Secretary (DPWA), Mr.
Rajesh Kumar, Jt. Secretary
(DPWA)

versus

STATE

..... Respondent

Through: Mr. Sanjeev Bhandari, ASC for the
State with Ms. Spriha Bhandari,
Ms. Charu Sharma, Mr. Arijit
Sharma and Mr. Vaibhav Vats,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT (oral)

1. Initially, a Criminal Leave Petition No.402/2017 was filed by State of NCT of Delhi praying therein that it may be granted *Leave to Appeal* to challenge judgment dated 19.07.2016.



2. Evidently, there was delay of 273 days in filing such *Leave to Appeal*.
3. This Court, when it took up the matter on 24.07.2017, expressed its concern as to why such petitions seeking leave of the Court were not being instituted within the prescribed period of limitation.
4. Fact remains that on 30.10.2017, the application for condonation of delay was dismissed and consequently, the Criminal Leave Petition was also dismissed.
5. However, while dismissing the aforesaid petition, this Court proposed to take up the issue concerning delays in filing Criminal Leave Petitions by the State and, therefore, it was directed that a separate Writ Petition under Article 226 of the Constitution of India titled “*Court on its own motion: In Re Delay in State filing CrL LPs*” be registered and numbered.
6. It was on the basis of the aforesaid direction that the present Writ Petition i.e. W.P. (Crl.) No. 3044/2017 was registered.
7. Comprehensive directions were passed on 12.02.2018 with the objective that the office of Directorate of Prosecution (DOP) is fully computerized. When the matter was taken up on 06.04.2018, there was further direction to GNCTD to come up with concrete time-bound procedure for digitization of the entire process of decision making concerning the filing of appeals.
8. An affidavit was also filed by GNCTD setting out the finally approved decision taken by the Law Department regarding processing of



such files and it was assured by the Standing Counsel (Criminal) that such timelines would be adhered to.

9. Needless to mention, since this Court was anxious and concerned about the digitization of Directorate of Prosecution, it kept on monitoring the matter and progress in the processes involved i.e. procurement of hardware and networking equipment, digital signature certificates and installation of equipment and appointment of Data Entry Operator and Assistant Programmer.

10. As stated by GNCTD and as admitted by DPWA as well, much has already been achieved in the aforesaid direction of digitization of DOP and, therefore, no further directions are required in the main writ petition.

11. It needs to be emphasized that when the writ petition was listed on 07.09.2021, an application (Crl. M.A. 14127/2021) was moved by Delhi Prosecutors Welfare Association (Regd.) (DPWA) who sought their intervention so that requisite directions are issued to GNCTD for, inter alia, providing them with adequate technological facilities/infrastructure in light of the scheme of Digitalization of Prosecution.

12. Said Association also made reference to their representations dated 04.08.2020 and 10.08.2021 and GNCTD was granted time to consider and respond to the same.

13. Admittedly, the concerns expressed by the aforesaid Association i.e. DPWA are as under: -

- i. Requirement of technological devices.
- ii. Advance increments for obtaining higher degree.
- iii. Robe/Dress allowance.



- iv. Applicability of the calendar of High Court of Delhi to Directorate of Prosecution, GNCTD.
 - v. Providing of Special Security Allowance to Public Prosecutors.
 - vi. Provision for Law Library and Research Material Allowance and Office space and office infrastructure in every district.
 - vii. Cadre Review of Public Prosecutors and its Directorate.
 - viii. Providing Camp Office Allowance to all the Public Prosecutors.
14. Let us consider these one by one.

REQUIREMENT OF TECHNOLOGICAL DEVICES

15. As per DPWA, Public Prosecutors are being reimbursed Rs. 50,000/-, once in five years, for purchasing laptop in terms of Office Memorandum F.11 (71)/CT/LJ&LA/15/1832-38 dated 07.04.2017. It is contended that various other officers of GNCTD viz DANICS, IAS and Judicial Officers are accorded facility of providing of one or more technological devices for communication and office work with the ceiling of Rs. 1.10 lacs, once in a block of four years. It is submitted that Public Prosecutors draw higher pay scale vis-a-vis DANICS Officers and, therefore, they are also entitled to be given technological devices upto said ceiling of Rs. 1.10 lacs.

16. Indeed, Public Prosecutors were earlier getting reimbursement upto Rs. 50,000/- (maximum ceiling) for purchasing laptop but finding that above amount was not reasonable enough, this Court had suggested that



they may be provided with one tablet with the maximum cap of Rs. 30,000/-. Such proposal was approved by GNCTD and thus, as on date, Public Prosecutors are getting Rs. 80,000/-, in all, for purchasing of laptop and tablet which amount seems to be quite sufficient for enabling them for doing their office work with the help of these technological devices.

17. However, the prescribed life of such technological devices should be the same i.e. four years instead of five years as has been prescribed for Executive and Judicial Officers and the annual rate of depreciation should also be in terms of Office Memorandum No. F2/883/CTB/GAD/2012/3126-27 dated 24.09.2013 which is applicable to Executive and Judicial Officers.

18. We order accordingly.

19. GNCTD is directed to issue appropriate Office Memorandum in this regard within six weeks from today.

20. We also clarify that above said amount of Rs. 80,000/- would be exclusive of Goods & Service Tax (GST) and not inclusive.

ADVANCE INCREMENTS FOR OBTAINING HIGHER DEGREE

21. According to DPWA, in terms of recommendations contained in Seventh Central Pay Commission, there is incentive for acquiring fresh higher qualification. It is contended that such incentive amount is given to only those public servants who acquire higher qualification after coming into service. The prosecutors, who join service already having



higher qualification, are not covered and, therefore, they are not given such incentive.

22. Apparently, there is anomaly in this regard.

23. We do feel that the Prosecutors, who join service with higher qualification, should also be treated at par and, therefore, to that extent, the grievance raised by DPWA seems to be genuine and well-founded.

24. However, during hearing, it was informed by Sh. Ramesh Gupta, learned Senior Counsel for DPWA that, as now informed to him, even the serving prosecutors are not getting any incentive despite acquiring higher qualification during service.

25. The association has now prayed that the prosecutors be given “three advance increments” on the same terms as applicable to learned judicial officers.

26. Fact remains that the judicial officers have been given such benefit in terms of recommendations given by National Judicial Pay Commission which were accepted by Hon’ble Supreme Court and, therefore, the prosecutors cannot claim parity, as a matter of right.

27. Nonetheless, we request GNCTD to consider such request regarding grant of incentive, either in lumpsum or by way of three advance increments, and to pass appropriate orders in this regard within six weeks from today.

28. Before passing any order, it would give opportunity of hearing to DPWA.



ROBE/DRESS ALLOWANCE

29. It is contended by DPWA that Public Prosecutors are not given any kind of robe/dress allowance but their counterparts in NIA and CBI are getting the same.

30. Admittedly, as per Office Memorandum No. 19051/1/2017-E.IV, Government of India, Ministry of Finance, Department of Expenditure dated 02.08.2017, Law Officers working in NIA have been granted dress allowance @ Rs. 10,000/- per annum. Same benefit has been given to Law Officers working in CBI.

31. This Court cannot be oblivious of the fact that Public Prosecutors are required to appear in the Court in robes and are required to wear the prescribed robe, including the black coat throughout the year and, therefore, it will be in the fitness of things if they are also granted dress allowance in the same manner.

32. Accordingly, we order that Public Prosecutors be given dress allowance @ Rs. 10,000/- per annum w.e.f. from date of the present order.

APPLICABILITY OF THE CALENDAR OF HIGH COURT OF DELHI TO DOP

33. Public Prosecutors in Delhi, as informed to us, are required to follow the calendar applicable to Delhi Administration.

34. Needless to say that the prosecutors are required to represent GNCTD and are required to conduct prosecution in Criminal Courts in Delhi and, therefore, they are required to follow the calendar meant for the Delhi District Courts as notified by this Court on Administrative Side,



else it would lead to an absurd situation because as per the calendar prescribed for Delhi District Courts, if the Court is closed, the prosecutors would still be required to come to the Courts and vice-versa.

35. Therefore, we find force and contention in the above request made by DPWA.

36. It is, therefore, directed that the prosecutors would follow the calendar prescribed for Delhi District Courts as approved and notified by High Court of Delhi.

37. However, above said direction comes with a rider.

38. As regards summer vacation falling in the month of June, the calendar meant for GNCTD would be applicable till GNCTD considers and takes a call whether the Prosecution Department can be treated as Vacation Department or not and whether during said period any other duty can be assigned to these prosecutors or making provision of any other suitable arrangement.

39. The decision in this regard be taken by GNCTD within eight weeks from today.

PROVIDING OF SPECIAL SECURITY ALLOWANCE TO PUBLIC PROSECUTORS

40. Undoubtedly, the Public Prosecutors in Criminal Justice Delivery System are required to handle very sensitive matters and, therefore, there is a prayer that they should be given *special security allowance*. According to DPWA, such special security allowance is being provided



to prosecutors/law officers of CBI, NIA, Enforcement Directorate and the prosecutors attached with Government of Assam.

41. Though, the security aspect can always be gone into and taken up on case-to-case basis as and when there is any perception of threat. We sincerely hope that in any such situation, the concerned authority would look into the matter without any kind of delay and would ensure that wherever so required, adequate security provision is made in terms of the request received from any such prosecutor.

42. However, at the same time, it is the duty of State to ensure about security and safety of all such stakeholders stationed in Court who come into contact with hardened criminals while discharging their official duties.

43. We, therefore, direct GNCTD to consider such request of Public Prosecutors while keeping in mind the fact that similar provision has been made for their colleagues serving in other agencies. Since, the judicial officers are also prone to such threat, GNCTD shall consider whether allowance or any alternate arrangement like providing PSO can be made for them or not.

44. Let a decision in this regard be taken within eight weeks from today.

**PROVISION FOR LAW LIBRARY AND RESEARCH
MATERIAL ALLOWANCE AND OFFICE SPACE AND
OFFICE INFRASTRUCTURE IN EVERY DISTRICT**

45. Undoubtedly, keeping in mind the advancement in law on virtually daily basis, prosecutors need to keep themselves updated.



46. Their request for having a library in each district, therefore, is not only logical but also need of the hour.

47. However, it is high time to adapt to the technological advances and, therefore, it is directed that GNCTD would create digital library for prosecutors in each district. Such e-library would be equipped with requisite number of computer systems, printers, hi-speed broadband and other related infrastructure and also subscription to prominent e-journals and e-legal software.

48. Proposal in this regard be submitted by DPWA through Director Prosecution, GNCTD and once proposal is put up and evaluated, it is expected that requisite sanction is accorded within eight weeks from the date of such proposal.

49. Simultaneously, learned Principal District & Sessions Judges of all districts of Delhi shall, if not already, provide requisite office space to Public Prosecutors posted in their respective districts. The space for office and creating e-library may be identified and approval be sought from of respective Building Maintenance & Construction Committee (BMCC), High Court of Delhi.

CADRE REVIEW OF PUBLIC PROSECUTORS

50. It goes without saying that cadre review should take place on regular intervals.

51. However, during course of the arguments, this Court was apprised that such exercise is already underway and, therefore, we direct that such exercise be completed within six weeks from today.



PROVIDING CAMP OFFICE ALLOWANCE

52. DPWA has lastly contended that they are entitled to camp office allowance as is admissible to IAS Officers, Senior DANICS Officers of GNCTD and Judicial Officers of Delhi.

53. Admittedly, such officers are getting reimbursement of Rs. 1.25 lacs (once every five years) for maintaining home office.

54. Keeping in mind the nature of work of public prosecutors and the fact that they have to go through the case files at their respective residences so as to come prepared for the work fixed on the next date, the prayer in this regard is allowed and it is directed that they would also be entitled to camp office allowance @ Rs. 1.25 lacs (once every five years) with effect from the date of this order.

55. The impleadment application of DPWA stands disposed of in aforesaid terms.

56. We also clarify that reference made to 'Public Prosecutors' in this order would, mean 'Asstt. Public Prosecutors and above'.

57. The writ petition also stands disposed of.

SURESH KUMAR KAIT, J

MANOJ JAIN, J

JULY 19, 2024

dr/st