

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 891/2013

MANJU KHANNAPetitioner

Represented by: Mr.Sanjay Poddar, Sr.Advocate

instructed by Dr.N.Pradeep Sharma, Mr.S.K.Rout and Mr.Govind, Advoc

versus

THE REGISTRAR GENERAL,

DELHI HIGH COURTRespondent

**Represented by: Mr.Rajiv Bansal, Advocate with Mr.D.Ray Chaudhary an
Ms.Arpita, Advocates**

CORAM:

HON'BLE MR.JUSTICE PRADEEP NANDRAJOG

HON'BLE MR.JUSTICE JAYANT NATH

ORDER

09.05.2014

1. Petitioner joined the Delhi High Court on June 09, 1980 as a Lower Division Clerk and was promoted to the post of Upper Division Clerk on September 28, 1990. She earned further promotion to the post of Senior Judicial Assistant on September 30, 1995.

2. With respect to when petitioner was working as a Dealing Assistant in the Criminal Branch, it transpired that Trial Court Record of a few criminal cases was misplaced/lost. On July 15, 2010 she was served with a charge memo under Rule 14 of the CCS (CCA) Rules, 1965. Finding her response to the charge memo not acceptable an Inquiry Officer was appointed who submitted a report indicting the petitioner.

3. The loss of the files was not disputed by the petitioner. Her defence was that due to inadequate space judicial files and records were kept in the open in the branches and thereby accessible to one and all. She took the stand that due to excessive work load the Dealing Assistants, on transfer from one seat to the other, simply hand over the seat without completing the formality of handing over and taking over the record. She further pleaded that the criminal branch shifted twice in the year 2005-

06 and then in the year 2008. She took the stand that it was just not possible to determine as to when the record got misplaced and merely because it being lost got detected when she was managing the seat would not mean that she is responsible for the same. She took the stand that the AOJ (Crl.) had opined on the issue by recording that she i.e. the petitioner was hardworking and sincere and that the unfortunate lapse occurred unintentionally and due to the circumstances prevailing in the branch at that time. The learned Deputy Registrar (Crl.) had opined that there was no mala fide intention on the part of the petitioner. The petitioner drew attention to the fact that the Registrar Incharge of the Branch had penned a note when the loss/misplacement of the files was detected as under:-

?The cupboards provided are ones meant for administrative files and have not been customized for keeping the records of heavy judicial files. The cupboards are not suitable inasmuch as they do not have adequate depth self sheets are too weak to bear the burden of heavy files with the result that the sliding doors of the cupboards remained jammed, unlocked and un-functional. Consequently the records of the criminal branch on

shifting to the new place could not be properly stacked which may have also caused to the confusion and loss of record.?

4. The Inquiry Officer has noted as aforesaid. While holding that the charges were proved, the Inquiry Officer listed mitigating circumstance opining that in view thereof the petitioner deserves to be treated leniently. The mitigating circumstances pointed out are as under:-

?(1) No proper handing/taking over was done by her predecessor, Mr.Subhash Chand Sharma.

(2) The judicial files and records are lying in open in branches and anyone have easy access thereto.

(3) Overburden of the seat. At the given time she was dealing with 4500 cases which as per the report of work study, relating to appellate side, the Hon?ble Committee recommended 1000-1200 files to be placed i the custody of a dealing assistant, assisted by a clerk for day to day dealing with the cases.

(4) Reconstruction of records has already been done.

(5) She has already suffered humiliation as she has got reversion from the post of Court Master to the Sr.Judicial Assistant on 4th June, 2010.

(6) Her due promotion has not yet been given and put under sealed cove for the last about two years.?

5. The penalty levied upon the petitioner is withholding of increments for two years without cumulative effect. An adverse effect thereof is that the petitioner while promoted on officiating basis as a Court Master has been reverted.

6. We note that in the year 1995 a work study report by a Committee comprising three Hon?ble Judges of this Court had noted that due to insufficient staff it was difficult for the Dealing Assistants to effectively manage their seats and keep track of the files entrusted to them. On February 28, 2008 the then Hon?ble Chief Justice of the Delhi High Court had suggested that a dealing seat should not have more than 500 files. It assumes importance to note that the inquiry report has taken note of the fact that at the given time the petitioner was dealing with 4500 files.

7. It is apparent that there is neither willful negligence nor lack of bona fide on the part of the petitioner. The overwhelming adverse conditions are the actual cause for the Trial Court Records to be misplaced. The failure is not that of the petitioner. It is the failure of the system.

8. Under the circumstances the writ petition is allowed. The penalty levied upon the petitioner is quashed. She would be entitled to the benefit of the two withheld increments and for which we direct arrears be paid to her within 12 weeks from today.

9. There shall be no orders as to costs.

PRADEEP NANDRAJOG, J.

JAYANT NATH, J.

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