

Joint Registrar (Judicial) (Budget)

May kindly see the online application of Sri Dilip Kumar Sahani, Additional Civil Judge (Junior Division), Azamgarh regarding grant of permission to appear in the IV semester examination examinations of his LL.M. (regular) Course from Banaras Hindu University (BHU), Varanasi.

In his application, Sri Dilip Kumar Sahani has stated that prior to joining in U.P. Nyayik Sewa, he has successfully completed three semesters of his LL.M. Course and related mark sheets (scanned copies) be seen as attachmant. He has also stated that he has not appeared in the LL.M. IV semester examination as he has not sent the intimation to Hon'ble High Court and due to COVID-19 for appearing in the examination, no attendance is required and the mode of the examination would be online and the examination would be open book exam mode and no study leave is required for the same. By pursuing this Course, his legal knowledge and thus would improve quality of judgments and orders and no judicial work would hamper from his appearing in the examination. Thereafter through various objection, the officer was asked to intimate about his appearance in the examination, academic session, his declaration regarding no attendance requirement and also be asked to intimate that how he can appear in the examination so late in spite of being it a regular course. In reply the officer has stated that he has appeared in the back examination of his LL.M. course which was scheduled on 31.07.2021 (on this day the officer has stated that he was on casual leave and Hon'ble Court was closed ue to weekend lockdown) through online mode. There was only one paper of theory and one Viva voce which was held on 14.08.2021 (2nd Saturday) and mode of LL.M. course was regular and his academic session is 2018-19, 3rd semester is in 2019 and 4th semester is in 2021 i.e. his overall session is 2018-21. Furthermore, In the notification published by Banaras Hindu University with regard to terminal semester examination dated Aug 21, 2020 (can be seen as highlighted paragraph of Annexure1), It is provided in the last line of 1st paragraph that in relaxation of provision contain in relevant ordinances. He has also added that his LL.M. course is governed by LL.M. Ordinance (Annexure2 can be seen as attachment). Rule no. 5B is related with attendance requirements and by the notification stated above the compulsory attendance is not required. It is also pertinent to mention here that as asked by Ld. Joint Registrar (Judicial) (Budget), the officer was asked to intimate about his appearance in 4th Semester examination of LL.M course in Year 2021 and dates on which the 4th Semester examinations were scheduled or if yet to be conducted then proposed schedule of examination. In reply, the officer has stated that he had appeared in the 4th semester examination conducted by Faculty of Law in online mode on 31st of July 2021 and online viva voce, which was scheduled on 14th of August 2021. He has also enclosed Admit card of 4th semester, notice from university regarding viva-voce and other relating papers for his regular LL.M. Course as attachments. He has therefore requested to grant him permission to appear in the aforesaid examination.

In this connection, it is stated that the officer has joined the Uttar Pradesh Nyayik Sewa on 16.12.2019. There is circular letter dated 4.11.11, which provides that if any Judicial Officer during the course of his Service, requests to pursue higher studies, he has to apply for grant of 'Study Leave' as per rules which will be subject to the discretion of Hon'ble the Chief Justice. In the instant case, the officer has stated that he would not take study leave. It is also pertinent to mention here that the officer has completed his three semester successfully prior to his joining and also stated that he has appeared in the IV semester examination (conducted through online mode) and viva voce; now, It is on the discretion of the Hon'ble High Court either to regularize the matter by granting ex post facto permission for his appearance in the LL.M. IV semester examination and for his appearance in the viva voce to the officer or to pass any such order which deems to be proper. It is also submitted that a Judicial Officer can be accorded permission to attend academic classes and specialized higher studies in terms of G.O. No.24/1066-Appointment (B) dated 21.08.1967, subject to the following conditions:-

1. Government work should not suffer in any way.
2. The academic classes, if any are held outside office hours.
3. No preferential treatment will be given in the matter of leave postings and transfer.
4. The permission can be withdrawn without notice if; it is found at any time that the

government servant neglects his normal work or that public work suffers, in any way.

May, therefore, if approved, the instant matter may be laid before Hon'ble Mr. Justice Pritinker Diwaker, Nominated Judge for the purpose, for His Lordship's kind perusal and if His Lordship approves :-

A) Sri Dilip Kumar Sahani, Additional Civil Judge (Junior Division), Azamgarh may be granted ex-post facto permission for his appearance in the IV semester examination of LL.M. course and for his appearance in the viva-voce of LL.M. Course to Banaras Hindu University, Varanasi with exemption of the requirement to take study leave for the same and without entering into the fact whether the University is recognised by University Grants Commission or not and without reserving any future claim of the Officer regarding his qualification if the University is not recognised.

Or

B) To pass any other order which His Lordship deem fit and proper.

Archana Awasthi
Review Officer
Mohd. Arshad
Assistant Registrar

Hon'ble Mr. Justice Pritinker Diwaker,

Nominated Judge

Submitted for kind perusal & order

Joint Registrar (Judicial) (Budget)

