

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

Date of Decision: January 29, 2018

+ W.P.(C) 6922/2017

RAJ KUMAR SRIVASTAVA Petitioner

Through: Mr. Vibhakar Mishra, Advocate

versus

UNION OF INDIA AND ORS Respondents

Through: Mr. Amit Mahajan, CGSC for
respondents No.1 & 2

Mr. Kamal Mehta, Advocate for
respondent No.3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

(ORAL)

C.M.3219/2018 (stay)

Upon hearing, this Court finds that instead of deciding this application, main petition itself can be heard today itself. Accordingly, the date of 7th March, 2018, fixed for final hearing of main petition, is preponed for today.

W.P.(C) 6922/2017 & C.Ms.28774/2017 & 3219/2018 (stay)

1. With the consent of learned counsel for the parties, this petition and the application are taken up today for final hearing.
2. Petitioner is a retired District Judge, who had applied for the post of Insurance Ombudsman in pursuance of Advertisement of September, 2012 and upon his selection, he was appointed and joined as Insurance

Ombudsman on 27th May, 2013 for a period of three years, which ended on 26th May, 2016. As per Advertisement of 24th July, 2017 (*Annexure P-1*), the upper age limit to apply for reappointment as Insurance Ombudsman is 64 years. When petitioner had completed his three years' term as Insurance Ombudsman, he was 64 years of age. The challenge in this petition is to the age limit fixed in the Advertisement (*Annexure P-1*) by relying upon a Notification of 25th April, 2017 (*Annexure P-5*) issued by Ministry of Finance. As per the Proviso to Clause 8 of the aforesaid Notification (*Annexure P-5*), no person shall hold office as an Ombudsman after he has attained the age of seventy years.

3. The precise submission of petitioner's counsel is that as per Notification (*Annexure P-5*), a person upto the age of 67 years can apply for the post of Insurance Ombudsman and impugned Advertisement is in contravention of Notification (*Annexure P-5*) and so, the upper age limit for reappointment fixed in the Advertisement (*Annexure P-1*) needs to be in tune with the Notification (*Annexure P-5*) and petitioner ought to be permitted to appear for the interview for the said post.

4. While entertaining this petition assailing the Advertisement (*Annexure P-1*), petitioner vide order of 11th August, 2017 was permitted to apply for the post of Insurance Ombudsman in pursuance of Advertisement (*Annexure P-1*). Interviews for the said post of Insurance Ombudsman are to take place tomorrow i.e. 30th January, 2018.

5. The opposition to this petition by learned counsel for respondents is on the ground that it is within the discretion of respondents to fix the age limit in the Advertisement (*Annexure P-1*) and the upper age limit of 64 years in *Annexure P-1* has been fixed after taking approval from the

Ministry of Finance. So, it is submitted that this petition deserves to be dismissed.

6. Upon hearing and on perusal of impugned Advertisement (*Annexure P-1*), Notification of 25th April, 2017 (*Annexure P-5*) and the material on record, I find that impugned Advertisement fixing the upper age limit of 64 years for applying to the post of Insurance Ombudsman for reappointment is in contravention of the Notification of 25th April, 2017 (*Annexure P-5*). It is evident from Notification (*Annexure P-5*) issued by the Ministry of Finance that an Ombudsman can hold office till he has attained the age of 70 years. Thus, it becomes apparent that a person upto the age of 67 years is eligible for being appointed as an Insurance Ombudsman. Accordingly, the upper age limit of 64 years fixed in the Advertisement (*Annexure P-1*) is brought in tune with the Notification (*Annexure P-5*). It is clarified that the age limit for applying for the post of Insurance Ombudsman would not be upto the age of 64 years, but is upto the age of 67 years. Consequentially, it is directed that petitioner be permitted to appear in the interview for the post of Insurance Ombudsman scheduled for tomorrow i.e. 30th January, 2018.

7. With aforesaid direction, this petition and the applications are disposed of.

Copy of this order be given *dasti* under signatures of the Court Master to counsel for the parties.

(SUNIL GAUR)
JUDGE

JANUARY 29, 2018

s