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

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Date of decision: 09.01.2024

+ **LPA 21/2024 and CM APPLs. 1049-50/2024**

OFFICE OF THE DISTRICT SESSIONS JUDGE
HEADQUARTERS, DELHI AND ANR. Appellants

Through: Ms Avnish Ahlawat, Standing
Counsel with Ms Tania Ahlawat, Mr
Nitesh K. Singh, Ms Laavanya
Kaushik, Ms Aliza Alam and Mr
Mohnish Sehrawat, Advocates.

versus

DISTRICT AND SESSIONS COURTS EMPLOYEES WELFARE
ASSOCIATION AND ANR. Respondents

Through: Mr Rajat Aneja with Ms Alka
Dwivedi, Advocates.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE AMIT BANSAL

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 1050/2024

1. Allowed, subject to just exceptions.

LPA 21/2024 and CM APPL. 1049/2024 [*Application filed on behalf of
the appellants seeking interim relief*]

2. This appeal is directed against an order dated 03.01.2024 passed by
the learned Single Judge.



3. Via the impugned order, the learned Single Judge has permitted the members of the respondent association to sit for the limited departmental competitive examination that is scheduled to be held on 14.01.2024.

4. Via the examination, the appellants seek to fill up 233 posts in the rank of Senior Judicial Assistant.

5. Ms Avnish Ahlawat contends that the members of the respondent association do not fulfill the eligibility criterion.

5.1 Concededly, the eligibility criterion for the applicants, as provided in the subject notification, is as follows:

Sl. No.	Name of the Post	Method of Recruitment	Qualification Etc.	Appointing Authority
13	Senior Judicial Assistant. (Promotion/Selection Post) (Non-Gazetted) PB-II-9300-34800+4600/-*	50% of the vacant posts by selection on merit from Judicial Assistants on the basis of written test and Interview,	For members of the Establishment of this Court: Graduate with 5 years service and non-graduate with 8 years service in the posts of Judicial Assistants.	District Judge**
*Revised PB-II-9300-34800+4800/-				
**Now Principal District & Sessions Judge (HQs), Delhi				

6. Mr Rajat Aneja, learned counsel, who appears on behalf of the respondent/association, on the other hand, says that if notional service is taken into account the members of the respondent association will fulfill the eligibility conditions. It is this aspect that is required to be adjudicated in



the pending writ petition.

7. Since the eligibility of a candidate who sits for an examination goes to the heart of the matter, according to us, an interim direction of the kind the learned Single Judge issued will not serve the interest of the parties. If an interim direction is issued, the court has to firstly, conclude that a *prima facie* case is made out for a grant of relief. The other two tests, i.e., the balance of convenience, and that irreparable damage will be caused if the relief as sought is not granted, follow the establishment of a *prima facie* case. The learned Single Judge has adverted only to “balance the equities”.

8. Mr Aneja emphasizes that if the members of the respondent association are unable to take the examination, then, the subject posts will be filled up, putting back their chance of being promoted by several years.

9. Having regard to the contentions of the counsel for the parties, in our view, the best way forward would be to defer the examination for a short period and request the learned Single Judge to dispose of the writ petition one way or the other, at the earliest.

10. Accordingly, we put this suggestion to Ms Ahlawat, who appears on behalf of the appellants.

10.1 Ms Ahlawat says that the examination can be held after five (5) weeks i.e., on 11.02.2024.

10.2 The statement of Ms Ahlawat is taken on record.

11. Accordingly, the impugned order is set aside only to enable final adjudication in the writ petition.

12. The learned Single Judge is requested to dispose of the writ petition on or before 05.02.2024.

13. Ms Ahlawat will take steps to inform the candidates about the



deferment of the examination.

14. The writ petition will be listed before the learned Single Judge on 11.01.2024.
15. The appeal is disposed of in the aforesaid terms.
16. Pending interlocutory applications shall also stand closed.
17. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

JANUARY 9, 2024 / tr