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

+ W.P.(C) 819/2025, CM APPL. 4056/2025, CM APPL. 4057/2025
& CM APPL. 4058/2025

MANISH KUMAR

.....Petitioner

Through: Mr. Moni Cinmoy and Mr. Rahul
Ranjan Verma, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sumit Batra, Advocate for R-
2.
Mr. V.S.R. Krishna, Advocate for
DMRC.
Mr. Ankur Chibber, Advocate for
R-4.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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22.01.2025

1. The petitioner is working in the post of Additional General Manager (Legal), Delhi Metro Rail Corporation ["DMRC"]. He has filed this petition under Article 226 of the Constitution, to challenge an order of appointment/extension of respondent No.4 as General Manager (Legal), DMRC. The office order is dated 09.12.2024 and extends the term of respondent No.4 until 31.12.2025.

2. The reliefs claims by the petitioner are as follows:

"a) setting aside the appointment/extension of the Respondent No.4 vide Office Order bearing No. DR/7661/2024 dated 09.12.2024 and all actions pursuant thereto; and

b) declaring the Office Order bearing No. DR/7661/2024 dated

W.P.(C) 819/2025

Page 1 of 4



09.12.2024 as void ab initio, contrary to the DMRC rules and statutory provisions; and

c) pass an order thereby directing the Respondent No.3 to strictly follow the Recruitment Rules and Service Rules of DMRC and selection process prescribed therein while making all/any appointments in DMRC, including but not limited to the post of GM Legal; and

d) pass an order directing the Respondent Authorities to strictly adhere to the seniority list published by Respondent No.3 to fill the post of GM Legal as and when the post become vacant; and

e) pass an order directing the Respondent No.4 & other Respondents to restore the loss caused to exchequer or loss of public money arising from such illegal appointments/extension; and/or

f) pass any order or further orders as this Hon'ble Court may deem fit and proper in the interest of Justice.”

3. Learned counsel for the respondents, who appears on advance notice, raises a preliminary objection that the disputes are amenable to the jurisdiction of the Central Administrative Tribunal [“CAT”] as DMRC is notified for the purposes of jurisdiction of the Tribunal.

4. Learned counsel for the petitioner submits that two writ petitions filed by the petitioner are pending before this Court. The first one is W.P.(C) 13738/2021, which seeks a writ of *quo warranto* in respect of appointment of respondent No.4. The order dated 03.12.2021, passed in the said writ petition, specifically notes that the question of maintainability is left open. In the second petition, i.e., W.P.(C) 3840/2024, the petitioner has challenged an earlier extension granted to respondent No.4.

5. In neither of the aforesaid petitions has the question of maintainability been finally decided.

6. In the present petition, the petitioner has stated that he earlier filed proceedings before CAT challenging the original appointment of



respondent No.4 (OA No. 1360/2021), seeking the following reliefs:

“a. Pass an order directing the Respondents to grant applicant all the benefits which he is otherwise entitled to in terms of the order dated 23.02.2018 and as defacto HOD since 23.05.2017 with all consequential benefits in time a bound manner.

b. Quash/Set aside the illegal appointment of the Respondent No.4 inasmuch as admittedly, the advertisement for the post of GM (Legal) was on direct recruitment basis but the appointment was curiously made on deputation basis for reasons best known to the Respondents. Moreover, the Respondent No.4 who was eventually appointed to the said post did not even possess the requisite qualification as prescribed by the service rule of DMRC.

c. Pass an order directing the Respondent Authorities to consider the candidature of the Applicant who is otherwise competent and well qualified to be appointed to the said post GM (Legal).

d. Pass any order or further orders as this Hon'ble Court may deem fit and proper in the interest of Justice.”

7. The proceedings were disposed of by CAT vide order dated 22.07.2021. On the question of challenge to the appointment of respondent No.4., the Tribunal held as follows:

“6. As regards the second aspect, the applicant was not a contender for that post at all. It is not his case that he submitted any application in response to the advertisement. Therefore, it should not make any difference for him, whether the respondent or somebody else is appointed on that post. At any rate, the Tribunal does not have jurisdiction to adjudicate upon the appointment of persons unless the challenge is by another, who too competed for that post.

7. We, therefore, dispose of the OA declining to interfere with the order of appointment of the 4th respondent but directing that the respondents shall examine the case of the applicant for payment of amounts on his being kept in charge of the post of General Manager (Legal) and in case any amount remained unpaid, it shall be released within four weeks.

There shall be no order as to costs.”

8. It is evident that the petitioner's challenge before CAT was not entertained on the grounds that he was not an applicant for the post as on that date. Learned counsel for the petitioner states that he is at present



also not eligible for the post of General Manager (Legal), but seeks to challenge the appointment of respondent No.4 on the grounds that the procedure for appointment of respondent No.4 was illegal.

9. As far as those aspects are concerned, the petitioner's earlier writ petitions are still pending, and will be adjudicated on the questions of maintainability and merits independently. The filing of the present petition is not evidently premised on any new grounds of challenge, and only contributes to multiplicity of litigation. If the petitioner wishes to bring on record the fact of the subsequent extension granted to respondent No.4, he may file an appropriate application in those proceedings.

10. The present writ petition is disposed of, leaving it open to the petitioner to take such alternative remedies as may be available to him in accordance with law.

11. Pending applications are also disposed of.

PRATEEK JALAN, J

JANUARY 22, 2025
SS/JM/