



2025:DHC:417-DB



\$~40

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 943/2025, CM APPL. 4653/2025, CM APPL. 4654/2025 & CM APPL. 4655/2025

SUDHIR KUMAR SHARMAPetitioner
Through: Mr. Purushottam Sharma
Tripathi and Mr. Prakhar Singh, Advs.

versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Balendu Shekhar, CGSC
with Mr. Jitendra Kumar Tripathi, Mr.
Krishna Chaitanya, GP and Mr. Raj Kumar
Maurya, Advs. for R-1/UOI.
Mr. Puneet Jain, Sr. Adv. with Mr. Mani
Moorjani, Mr. Om Sudhir, Mr. Tushar
Sharma, Mr. Rohit Kumar Ray,
Mr. Madhav, Advs. with Mr. Rishi Kumar
and Mr. Neeraj Kumar Bhati, Authorised
Representatives for R-2.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)
24.01.2025

%

C. HARI SHANKAR, J.

1. Prayers (a) and (b) in this writ petition read as under:

“In these circumstances, it is most respectfully prayed that this
Hon’ble Court may be pleased to:-

a) Issue a writ of certiorari or any other appropriate writ, order or
direction quashing and set aside the impugned order dated



2025:DHC:417-DB



08.11.2024 passed by the Ld. CAT in OA No. 4354 of 2024 (Annexure P-1) to the extent the order has declined to grant interim relief to the Petitioner;

b) Issue a writ of certiorari or any other appropriate writ, order or direction quashing and set aside the impugned order dated 08.11.2024 passed by the Ld. CAT in OA No. 4354 of 2024 (Annexure P-2) to the extent the order has declined to grant interim relief to the Petitioner;”

2. At the outset, Mr. Purushottam Sharma Tripathi, learned Counsel for the petitioner submits that there is a typographical error in prayer (b) of the writ petition in which the date “08.11.2024” should be read as “19.12.2024”.

3. Accordingly, we treat prayer (b) as corrected by replacing the date “08.11.2024” with “19.12.2024”.

4. The writ petition, therefore, challenges two orders passed by the Central Administrative Tribunal¹ in OA 4354/2024. We deem it appropriate to reproduce the said orders, thus:

Order Dated 08/11/2024

“M.A. No. 4112/2024

1. By way of the captioned M.A. the applicants seeks certain exemptions.

2. The M.A. is allowed subject to just exceptions.

O.A. No. 4354/2024

1. Heard.

¹ “the Tribunal”, hereinafter



2025:DHC:417-DB



2. Issue notice.
3. Learned counsels appearing for the respondents on advance service accept notice.
4. They seek and are allowed 4 weeks' time to file reply. Learned counsel for the applicants seeks and is allowed a weeks' time to file rejoinder.
5. In the facts and circumstances, learned counsel for the applicants does not press for grant of interim relief, however, with liberty to approach this Tribunal if occasion arises, before the next date of hearing.
6. List on 19.12.2024.”

Order Dated 19/12/2024

“M.A. Nos. 4705/2024, 4706/2024, 4707/2024 & 4708/2024

Issue notice.

2. Let the reply in the OA filed on behalf of the respondents be placed on record, which is stated to be file.
3. List on 30.01.2025.”
5. The order dated 8 November 2024 is an order passed on consent. By the said order, the petitioner chose not to press the prayer for interim relief advanced by him in the OA, and was granted liberty to file an appropriate application if the occasion arose. Quite obviously, this order brooks no challenge.
6. The order dated 19 December 2024 merely issues notice on the miscellaneous applications filed by the petitioner and directs them to be re-listed. Of these applications, MA 4705/2024, MA 4706/2024 and MA 4707/2024 were merely formal applications, and the only



2025:DHC:417-DB



substantial application, which sought interim relief, was MA 4707/2024.

7. The order dated 19 December 2024 does not decide any of these applications. It does not even express a *prima facie* view thereon. It merely issues notices on the applications, returnable for 30 January 2025.

8. We doubt if the Supreme Court, when, in *L. Chandra Kumar v UOI*², holding that orders passed by the Central Administrative Tribunal could be challenged before the High Court under Article 226 of the Constitution of India, ever envisaged challenges against orders merely issuing notice.

9. We, have heard Mr. Tripathi on the aspect of maintainability of this petition, against such an order. We also put it to Mr. Tripathi that if he was pressing this petition, we would be inclined to hear him on the issue of whether the interim relief sought by the petitioner in MA 4707/2024 was at all justified on merits. He agreed.

10. With consent of Mr. Tripathi, therefore, we have heard him both on the aspect of maintainability of this writ petition as well as on the merits of his challenge on the prayer contained in MA 4707/2024 which reads thus:

“In light of the above facts and circumstances this Hon'ble Tribunal

² (1997) 3 SCC 261



2025:DHC:417-DB



may be pleased to

- (a) Allow the instant application and grant ad interim Ex parte stay of NCDC Advertisement bearing No. NCDC:4-1/2024-Admn & Advt. No. 08/2024 inviting applications for Direct Recruitment to the post of Financial 2Adviser, NCDC pending adjudication of the instant Original Application;
- (b) Pass any other or further orders as may be deemed fit and proper in the circumstances of the case.”

11. There are three features of the first order dated 8 November 2024, which may be enumerated as under:

- (i) The Tribunal issued notice on OA 4354/2024, returnable on 19 December 2024.
- (ii) The petitioner *did not press for grant of interim relief as sought in the OA*. We may, in this regard, reproduce the prayer for grant of interim relief sought in the OA, thus:

“9. INTERIM AWARD:

- i) Direct ad interim ex parte stay of the impugned compulsory retirement order dated 26.09.2024 bearing No. NCDC:7-3/2015-Admin (Annexure A-1);
- ii) Direct the Respondents to reinstate the Applicant herein to the post of Financial Adviser, NCDC till the final disposal of the instant OA; or
- iii) Direct the Respondents to reserve one post of Financial Adviser, NCDC for the Applicant herein till the final disposal of the instant OA.”

Thus, *the petitioner voluntarily gave up the prayer for interim relief before the Tribunal on 8 November 2024*. Among the



2025:DHC:417-DB



prayers for interim relief raised in the OA were the prayer for reinstatement and stay of compulsory retirement pending disposal of the OA. These interim prayers were, therefore, given up by the petitioner on 8 November 2024, as not pressed. *In other words, the petitioner voluntarily acquiesced to the order of compulsory retirement remaining in force during the pendency of the OA.*

(iii) The Tribunal granted liberty to the petitioner to apply for interim relief, if occasion arose. Though Mr. Tripathi sought initially to read this liberty granted by the Tribunal as protective in some way, we are unable to agree. The liberty granted was innocuous. The Tribunal merely granted liberty to move an application for interim relief, should any occasion arise in future. Clearly, the said grant of liberty cannot amount even to a tentative expression of opinion by the Tribunal on any aspect.

12. *The most important feature of the order dated 8 November 2024, in our opinion, is the voluntary abandonment, by the petitioner of his prayer for interim relief by which he had sought stay of operation of the order of compulsory retirement and reinstatement pending disposal of the OA.*

13. Purportedly in exercise of the liberty granted by the Tribunal on 8 November 2024, the petitioner moved MA 4707/2024, seeking interim relief. This application was essentially directed against Advertisement No. 08/2024, issued after 8 November 2024, inviting



2025:DHC:417-DB



applications for direct recruitment to the post of Financial Adviser, NCDC. The petitioner, by MA 4707/2024, sought a stay of operation of the said Advertisement.

14. We are completely at a loss as to how the petitioner, who on that date was compulsorily retired from service and who had given up his prayer for stay of compulsory retirement and reinstatement before the Tribunal on 8 November 2024, could at all maintain an application for a stay of the subsequent advertisement issued by the respondent.

15. Clearly, therefore, MA 4707/2024 was completely misconceived. There is no question of the petitioner, who was compulsorily retired from service and who had voluntarily given up his prayer for stay of compulsory retirement, having any locus to challenge the subsequent recruitment advertisement issued by the respondent.

16. For that matter, even if the petitioner had not given up his application for stay of compulsory retirement, it is obvious that the Tribunal would not ordinarily have been justified in putting the clock back and reinstating the petitioner in service at an interim stage. Till the OA filed by him was allowed, and his order of compulsory retirement was finally set aside by the Tribunal – if at all it was – the petitioner could not legitimately seek an interim stay of an advertisement subsequently issued by the respondent. As an outsider, the petitioner had no locus to seek interdiction promotions or



2025:DHC:417-DB



appointments being made within the respondent-organization. In fact, as an outsider, the petitioner would not even be able to pray that such appointments or promotions be made subject to the outcome of the OA.

17. We, therefore, are of the opinion that this petition must fail both because it fails to make out any substantial cause for interference with the impugned orders dated 8 November 2024 and 19 December 2024, and also because MA 4707/2024, filed before the Tribunal, is also without merit.

18. Accordingly, this writ petition, as well as MA 4707/2024 filed by the petitioner before the Tribunal, stand dismissed.

C.HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 24, 2025/AS

[Click here to check corrigendum, if any](#)