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

% **Date of decision: 5th December, 2025**

+ W.P.(C) 13738/2021, CM APPL. 56116/2022 & CM APPL. 22435/2025

MANISH KUMAR

.....Petitioner

Through: Mr. Moni Cinmoy, Mr. Abhinav Akash, Mr. Hariom, Ms. Komal & Mr. Anuj Dhauja, Advs. with Petitioner in person.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Vedansh Anand, SPC with Mr. Kush Garg, Adv. for UOI. Mr. Anubhav Gupta, Panel Counsel (Civil) GNCTD for R-2. Mr. V.S.R. Krishna, Mr. V. Shashank Kumar, Advs. for R-3/DMRC with Mr. A.S.Rao, Dy. Gen. Manager (Legal). Mr. Ankur Chhibber, Adv. for R-4.

+ W.P.(C) 3840/2024, CM APPL. 15766/2024, CM APPL. 15768/2024 & CM APPL. 22463/2025

MANISH KUMAR

.....Petitioner

Through: Mr. Moni Cinmoy, Mr. Abhinav Akash, Mr. Hariom, Ms. Komal & Mr. Anuj Dhauja, Advs. with Petitioner in person

versus



UNION OF INDIA AND OTHERS

.....Respondents

Through: Ms. Khushboo Mittal, Adv. for
Mr. Sameer Vashisht, SC
(Civil) GNCTD for R-2.
Mr. V.S.R. Krishna, Mr. V.
Shashank Kumar, Advs. for R-
3/DMRC with Mr. A.S.Rao,
Dy. Gen. Manager (Legal).
Mr. Ankur Chhibber, Adv. for
R-4.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

AVNEESH JHINGAN, J. (ORAL)

1. These two writ petitions are being decided by this common order as the facts and the issue involved are similar.
2. The W.P.(C) 13738/2021 is in the nature of *Quo Warranto* seeking setting aside of appointment of Sh. S.V. Kute (hereinafter 'the respondent') to the post of General Manager (Legal) (for short 'GM Legal') on deputation vide office order dated 23.05.2019 and thereafter on direct recruitment basis by office order dated 01.01.2021.
3. The W.P.(C) 3840/2024 is in the nature of *Quo Warranto* seeking setting aside of office order dated 01.01.2024 appointing the respondent on post-retiral contractual engagement to the post of GM Legal and offer letter dated 26.12.2023.
4. Advertisement dated 30.08.2018 was notified inviting applications for the post of GM Legal in Delhi Metro Rail Corporation (for short 'DMRC') for direct recruitment. The respondent applied in pursuance to the advertisement and vide office order dated 23.05.2019



was taken on deputation in view of the movement order on posting issued by Air Force Headquarters. On 16.12.2020, the respondent was relieved with effect from 23.12.2020 to join parent organization. Upon acceptance of terms and conditions stipulated in office letter dated 19.10.2020, the respondent joined on the post of GM Legal as a direct recruit.

5. Aggrieved of the appointment of the respondent on deputation vide office order dated 23.05.2019, the petitioner approached the Central Administrative Tribunal (in short 'Tribunal') and the O.A. No. 1360/2021 was dismissed on 22.07.2021. It was held that the petitioner was not a contender for the post and the Tribunal cannot adjudicate the appointment of a person unless challenged by another who too competed for that post.

6. The order of the Tribunal was not challenged by the petitioner, instead by filing W.P.(C) 819/2025 the office order dated 09.12.2024 extending the term of the respondent till 31.12.2025, was questioned.

7. The learned Single Judge disposed of the petition on 22.01.2025 with liberty to the petitioner to avail alternative remedies in accordance with law. It was taken into account that the order dismissing the OA was not challenged, two writ petitions filed by the petitioner were pending and no new ground to challenge the appointment of the respondent was raised.

8. The intra court appeal (LPA 170/2025) preferred against the decision of the learned Single Judge was dismissed on 06.03.2025. The Division Bench held that in service matter the High Court cannot



be approached at the first instance. Further that in absence of challenge to the order of the Tribunal dismissing the OA impugning the appointment of the respondent, the writ in nature of *Quo Warranto* at instance of the petitioner challenging the appointment of the respondent was not maintainable. It was held that the petitioner was not eligible for the post of GM Legal and had no *locus standi* to file individual writ petition in the nature of *Quo Warranto*. The SLP against the decision in LPA was dismissed on 25.08.2025.

9. On 01.12.2025, learned counsel for the respondent raised a preliminary objection that the order of the Tribunal dismissing the challenge to the appointment of the respondent attained finality and the successive writs filed by the petitioner against the appointment of the respondent were articulated by the Division Bench while dismissing the LPA. Learned counsel for the petitioner sought time to have instructions from the client as to whether to press the present petitions or not.

10. Learned counsel for the petitioner, on instructions from the client present in Court as identified by the counsel, submits that the petitions are to be pressed and a legal issue is involved.

11. Learned counsel for the petitioner argues that appointment of the respondent on deputation in pursuance to the advertisement dated 30.08.2018 for direct recruitment on the post of GM Legal in DMRC was illegal. No other issue is raised.

12. Per contra, the petitioner failed before the Tribunal in the challenge made to the appointment of the respondent on deputation



basis and the order attained finality. It is contended that the petitioner was not eligible to apply for the post of GM Legal and the Division Bench in intra court appeal held that the writ in the nature of *Quo Warranto* in the individual capacity of the petitioner is not maintainable and therefore the present writ petitions should be dismissed.

13. Before proceeding further, it would be necessary to reproduce the prayers made before the Tribunal in OA No.1360/2021 filed by the petitioner:

“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.”

14. The second prayer made in the OA is identical to the prayer made in this writ petition. The prayer was rejected by the Tribunal by



passing the following order:

“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.”

15. The order of the Tribunal was not challenged by the petitioner rather W.P.(C) 13738/2021 was filed seeking the same relief. Thereafter, W.P.(C) 3840/2024 was filed challenging the continuation of the respondent on the post of GM Legal in DMRC on post-retiral contractual engagement. The basis of the challenge was same that the initial appointment in year 2019 on deputation was bad. Thereafter, the petitioner filed a third writ petition W.P.(C)819/2025 challenging the appointment/extension of the respondent vide office order dated 09.12.2024 which was dismissed on 22.01.2025. The operational part of the order is quoted below:

“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."

16. In LPA filed against order of learned Single Judge, to meet the objection that in service matter the remedy is available before the Tribunal and that the petitioner had not challenged the order of the Tribunal dismissing the OA, a specific stand was taken that the writ in the nature of *Quo Warranto* challenging the illegal appointment of the respondent is maintainable. The Division Bench held that the petitioner was not eligible for the post of GM Legal and therefore writ petition against the appointment of the respondent was not maintainable in an individual writ. The relevant portion of the judgment of the Division Bench of this Court in LPA 170/2025 is reproduced below:

"16. The appellant is either a person interested in the



appointment of Respondent 4, or a person who is not interested in the appointment of Respondent 4. There is no half way house.

17. In case the appellant has a personal interest in the appointment of Respondent 4, in that setting aside of the appointment of Respondent 4 would affect the appellant's conditions of service, the lis in the writ petition would clearly be a "service matter" within the meaning of Section 2(q) of the AT Act, and would have to be preferred before the Tribunal under Section 19 thereof.

18. On his attention being drawn to this aspect, Mr. Chinmoy, submits that as on date, his client is not eligible for the post of GM (Legal), which is occupied by Respondent 4. If that is so, it is clear that the appellant cannot maintain an individual writ petition seeking a quo warranto against the appointment of Respondent 4, for want of locus standi. On the entitlement of a person, who has no enforceable right which he seeks to espouse or enforce, to invoke Article 226 of the Constitution of India, the Constitution Bench spoke thus, as far back as in *State of Orissa v Ram Chandra Dev*¹⁰, through Gajendragadkar J. (as he then was):

"8. On the merits, the position is absolutely clear. Under Article 226 of the Constitution, the jurisdiction of the High Court is undoubtedly very wide. Appropriate writs can be issued by the High Court under the said article even for purposes other than the enforcement of the fundamental rights and in that sense, a party who invokes the special jurisdiction of the High Court under Article 226 is not confined to cases of illegal invasion of his fundamental rights alone. But though the jurisdiction of the High Court under Article 226 is wide in that sense, the concluding words of the article clearly indicate that before a writ or an appropriate order can be issued in favour of a party, it must be established that the party has a right and the said right is illegally invaded or threatened.



The existence of a right is thus the foundation of a petition under Article 226. The narrow question which falls for our decision in the present appeals is whether the respondents can be said to have proved any legal right in respect of the properties of which they apprehended they would be dispossessed by the appellant.”

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23. In that view of the matter, WP (C) 819/2025, in our view, was not maintainable before the learned Single Judge, even on this ground.

24. Besides, we find that WP(C) 819/2025 additionally not maintainable, for another, equally significant, reason.

25. The appellant instituted OA 1360/2021 before the Tribunal challenging the appointment of Respondent 4 as GM (Legal). That OA was dismissed by the Tribunal on 22 July 2021 on the ground that, as the appellant was not even a contender for the post of GM (Legal), the OA was not maintainable. The appellant never chose to challenge the said judgment. In other words, the appellant acceded to the position that as a person who was not a contender for the post of GM (Legal), he could not maintain an individual challenge to the appointment of Respondent 4 to the said post – which, in fact, was the correct position in law.

26. Having not chosen to challenge the order dated 22 July 2021 passed by the Tribunal in OA 1360/2021, we are at a loss to understand how the appellant could file writ petition after writ petition challenging the appointment of Respondent 4 as GM (Legal).

27. We do not wish to say anything further.”

17. The issue inter se the parties vis-a-vis the maintainability of a writ in the nature of *Quo Warranto* at instance of petitioner challenging appointment and continuation of the respondent on the



post of GM Legal in DMRC was decided against the petitioner and attained finality with dismissal of the SLP.

18. Be that as it may, the interference in writ of *Quo Warranto* is to be made only where public office is held by a person not eligible or not possessing the requisite qualifications or where the appointment is in violation of statutory provisions. Reference in this regard be made to the following decisions of the Hon'ble Supreme Court:

In ***Gambhirdan K. Gadhvi v. State of Gujarat*** (2022) 5 SCC 179, the Supreme Court held:

“18. Thus, as per the law laid down in a catena of decisions, the jurisdiction of the High Court to issue a writ of quo warranto is a limited one, which can only be issued when a person is holding the public office does not fulfil the eligibility criteria prescribed to be appointed to such an office or when the appointment is contrary to the statutory rules. Keeping in mind the law laid down by this Court in the aforesaid decisions on the jurisdiction of the Court while issuing a writ of quo warranto, the factual and legal controversy in the present petition is required to be considered.”

In ***State of W.B. v. Anindya Sundar Das*** (2022) 16 SCC 318, the Supreme Court held:

“34. Through these decisions, the Court has settled the position that the writ of quo warranto can be issued where an appointment has not been made in accordance with the law. Accordingly, the rival contentions must be analysed by dealing with the scheme of the statutory provisions governing the appointment and reappointment of the VC.”

In ***Bharati Reddy v. State of Karnataka*** (2018) 6 SCC 162, the



Supreme Court held:

“36. In High Court of Gujarat v. Gujarat Kishan Mazdoor Panchayat [High Court of Gujarat v. Gujarat Kishan Mazdoor Panchayat, (2003) 4 SCC 712 : 2003 SCC (L&S) 565] in a concurring judgment S.B. Sinha, J. (as his Lordship then was) noted that the High Court [Gujarat Mazdoor Panchayat v. State of Gujarat, 2001 SCC OnLine Guj 76 : (2001) 4 LLN 319] in exercise of its writ jurisdiction in a matter of this nature is required to determine at the outset as to whether a case has been made out for issuance of a writ of certiorari or a writ of quo warranto. However, the jurisdiction of the High Court to issue a writ of quo warranto is a limited one. While issuing such a writ, the Court merely makes a public declaration but will not consider the respective impact of the candidates or other factors which may be relevant for issuance of a writ of certiorari. The Court went on to observe that a writ of quo warranto can only be issued when the appointment is contrary to the statutory rules as held in Mor Modern Coop. Transport Society Ltd. v. State of Haryana [Mor Modern Coop. Transport Society Ltd. v. State of Haryana, (2002) 6 SCC 269] . The Court also took notice of the exposition in R.K. Jain v. Union of India [R.K. Jain v. Union of India, (1993) 4 SCC 119 : 1993 SCC (L&S) 1128] . The Court noted that with a view to find out as to whether a case has been made out for issuance of quo warranto, the only question which was required to be considered was as to whether the incumbent fulfilled the qualifications laid down under the statutory provisions or not. This is the limited scope of inquiry. Applying the underlying principle, the Court ought not to enquire into the merits of the claim or the defence or explanation offered by the appellant regarding the manner of issuance of income and caste certificate by the jurisdictional authority or any matter related thereto which may be matter in issue for scrutiny concerning the validity of the caste certificate



issued by the jurisdictional statutory authority constituted under the State Act of 1990 and the Rules framed thereunder. That inquiry may require examination of all factual aspects threadbare including the legality of the stand taken by the appellant herein.

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39. We have adverted to some of those decisions in the earlier part of this judgment. Suffice, it to observe that unless the Court is satisfied that the incumbent was not eligible at all as per the statutory provisions for being appointed or elected to the public office or that he/she has incurred disqualification to continue in the said office, which satisfaction should be founded on the indisputable facts, the High Court ought not to entertain the prayer for issuance of a writ of quo warranto.”

In *B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Assn.* (2006) 11 SCC 731 (2), the Supreme Court held:

“49. The law is well settled. The High Court in exercise of its writ jurisdiction in a matter of this nature is required to determine, at the outset, as to whether a case has been made out for issuance of a writ of quo warranto. The jurisdiction of the High Court to issue a writ of quo warranto is a limited one which can only be issued when the appointment is contrary to the statutory rules.

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51. It is settled law by a catena of decisions that the court cannot sit in judgment over the wisdom of the Government in the choice of the person to be appointed so long as the person chosen possesses the prescribed qualification and is otherwise eligible for appointment. This Court in *R.K. Jain v. Union of India* [(1993) 4 SCC 119 : 1993 SCC (L&S) 1128 : (1993) 25 ATC 464] was



pleased to hold that the evaluation of the comparative merits of the candidates would not be gone into a public interest litigation and only in a proceeding initiated by an aggrieved person, may it be open to be considered. It was also held that in service jurisprudence it is settled law that it is for the aggrieved person, that is, the non-appointee to assail the legality or correctness of the action and that a third party has no locus standi to canvass the legality or correctness of the action. Further, it was declared that public law declaration would only be made at the behest of a public-spirited person coming before the court as a petitioner...”

(emphasis supplied)

19. The only argument pressed in this petition is that in the year 2019 the respondent was appointed on deputation whereas the advertisement was for direct recruitment. It is not a case set up that the respondent was not eligible or was not having the required qualifications to hold an office of GM Legal. Nothing is brought on record to substantiate that the appointment of the respondent on deputation basis was contrary to statutory provisions. It cannot be lost sight of the fact that on 19.10.2020 respondent was offered appointment for direct recruitment and pursuance thereto respondent joined on 01.01.2021.

20. The challenge in the OA to the appointment of the respondent on deputation on the basis of an advertisement for direct recruitment was dismissed by the Tribunal and the order was not challenged by the petitioner; the maintainability of a *Quo Warranto* at the instance of the petitioner was decided against him in LPA 170/2025; and lastly, no case is made out of the respondent being ineligible for the post of GM



Legal or that the appointment was made in violation of statutory provisions. No case is made out for interference in writ jurisdiction.

21. The conduct of the petitioner in challenging the appointment and continuation of the respondent in the office of GM Legal needs to be considered. The petitioner approached the Tribunal and upon dismissal of the OA, instead of challenging the order of the Tribunal filed a writ of *Quo Warranto*. During the pendency of the first writ, another writ was filed challenging the continuation of the respondent and thereafter a third writ petition was filed raising the same grievance of continuation of the respondent on the post of GM Legal. Not only this, the issue of maintainability of *Quo Warranto* at the instance of the petitioner against the appointment of the respondent was decided against the petitioner and the SLP was dismissed yet these petitions were pursued. The writ petitions are dismissed with costs of Rs.25,000/- to be paid to the respondent by the petitioner.

AVNEESH JHINGAN, J

DECEMBER 5, 2025

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Reportable:- Yes