

09.03.2026
Item No.37
Ct. No. 1
PG

WP.CT. 56 of 2026
Union of India & Ors.
VS
Shri Raja Pankaj

Mr. Ashok Kr. Chakraborty, Ld. ASG
Mr. Suman Chattopadhyay
Ms. Tapasi Sinha Palit
.....for the Petitioners

Mr. Ujjal Ray ...for the respondent

PER, SUJOY PAUL, CJ.:

1. We have heard Mr. Ashok Kr. Chakraborty, learned Additional Solicitor General assisted by Mr. Suman Chattopadhyay, learned counsel for the petitioners and Mr. Ujjal Ray, learned counsel for respondent.

2. With the consent of the parties, the matter is finally heard.

3. The interlocutory order of tribunal dated 25.08.2025 passed in O.A./1230/2025 (Kolkata) is the

subject matter of challenge in this petition filed by Union of India.

4. A plain reading of order shows that awaiting the reply of the department, the Court passed an interim order by getting satisfied *prima facie* on the contentions of learned counsel for the applicant therein.

5. The learned Additional Solicitor General for petitioners submits that the O.A. itself is not maintainable because multiple reliefs are claimed in the O.A. Secondly, without exhausting statutory alternative remedy, directly O.A. is filed. Thirdly, even if the order impugned is an interim order, it has the character of a final order because the order of compulsory retirement has been stayed.

6. However, during the course of hearing, he fairly admitted that all

these objections can very well be raised while filing reply/affidavit in opposition before the tribunal.

7. He further submits that since a contempt petition is filed by applicant before the tribunal, till he files an affidavit in opposition along with an application for vacation of stay and the same is decided, the tribunal may be restrained from taking coercive action in the contempt proceedings.

8. Sri Ray, learned counsel for respondent supported the impugned order and submits that the applicant therein is without any source of livelihood and interim order has been grossly violated. Thus, tribunal can proceed with the contempt.

9. No other point is pressed.

10. We have heard the parties at length.

11. A microscopic reading of impugned order dated 25.08.2025 shows that the learned counsel for respondents therein prayed for time of four weeks to file affidavit in opposition/reply. Considering the argument of learned counsel for applicant therein, a *prima facie* finding is given by the learned tribunal.

12. In our considered opinion, there was no occasion for the department to file this petition. The proper course would have been to file the affidavit in opposition/reply along with application for vacation of stay before the tribunal, rather approaching this Court. Thus, we deem it proper to dispose of this petition with following directions:

- I) The department/petitioners may file its affidavit in opposition

along with application for vacation of stay within 15 days from today before the tribunal.

II) Reply (if not filed), may be filed within 7 days therefrom.

III) The tribunal shall consider and decide the application for vacation of stay within 10 working days therefrom.

IV) Till decision is taken on the application for vacation of stay, the tribunal may postpone the hearing of the contempt petition.

13. The present petition is disposed of without expressing any opinion on the merits of the case.

14. It will be open to the department to take all possible objections in their affidavit in opposition before the tribunal.

15. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)