

Reserved

**Central Administrative Tribunal, Allahabad Bench,
Allahabad**

Original Application No.330/00666/2020

This the 23rd day of February, 2021.

Present.

**Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)
Hon'ble Mr. Tarun Shridhar, Member (A)**

Syed Ali Mehdi AbidiApplicant

By Advocate: Shri A.K. Singh/Shri Ashish Srivastava

Versus

Union of India and othersRespondents

By Advocate: Sri L.M Singh/ Shri G.K Tripathi/ Shri A.K. Dave/Shri P.K. Pandey

ORDER

By Hon'ble Mr. Tarun Shridhar, Member (A)

This O.A. has been listed for decision on the applicant's prayer for interim relief.

2. While there are several main reliefs sought by the applicant, we will confine this order and arguments thereon to the limited prayer for interim relief, which for the sake of clarity is reproduced below:-

"In view of the facts stated above, during the pendency of this original application, this Hon'ble Court may kindly be pleased to stay the effect and operation of the impugned provisional seniority list dated 28.10.2020, notification dated 04.11.2020 and order dated 12.11.2020 or alternatively direct the respondents to allow the applicant to take part in the selection of Law Officer (Group B) on provisional basis, otherwise the applicant should suffer irreparable loss and injury".

3. The brief background of the case is that the applicant seeks promotion to the post of Law Officer on the ground that the applicant has been working as a Law Officer and subsequently to the upgraded post of Chief Law Assistant continuously since May 1997. It is relevant to mention here that the

post of Chief Law Assistant is a feeder post for the purpose of selection to the post of Law Officer.

4. Learned counsel for the applicant vehemently argues that the applicant who has been in continuous employment of the respondents since the year 1989 fulfils all the eligibility criteria for the post of Law Officer and his rightful claim is being denied. The applicant joined the respondents' organization initially as a Clerk and later on was selected for the position of Law Assistant on the basis of a competitive exam. However, at a later date when the time came for confirmation of the applicant as Law Assistant, he was ordered to be reverted. To cut a long story short the matter remained under protracted litigation in various courts and was agitated up to the Hon'ble Supreme Court, which held that reversion of candidate along with other similarly placed candidates after a long lapse of time would not be fair. The Hon'ble Apex Court did not adjudicate either upon the question of law or upon the claims and rights of the applicants but merely permitted to continue them on their present post i.e. Chief Law Assistant till retirement.

5. Learned counsel for the applicant would argues that since the applicant is a bonafide holder of position of Chief Law Assistant in which even Hon'ble Supreme Court has allowed him to continue, he deserves to be considered for selection to the post of Law Officer.

6. On the other hand, learned counsels for the respondents strongly argue that even consideration for the promotion of the applicant to the post of Law Officer would amount to non compliance of the specific direction of the Hon'ble Supreme Court which has unambiguously stated that the applicant, till the date of his retirement, is to continue in his present position. They would further argue that since the applicant's right and claim as Chief Law Assistant itself has not been recognized, he can certainly not be a candidate for the position of Law Officer. The applicant is continuing to function as Chief Law Assistant only on account of indulgence and concession given by way of judicial orders merely to mitigate his hardship and not as a recognition of his rights.

7. Learned counsel for the applicant would again argue that the direction of the Hon'ble Supreme Court is only in the context of the order of reversion and is certainly no bar to the applicant's promotion. Moreover, he points out that similarly placed candidate has been given the benefit of promotion.

8. We reiterate that, at this stage, we are not going into the details of the averments in the O.A. or in the replies of the respondents nor trying to establish the rights and claims of the parties but are restricting ourselves to the prayer for interim relief. Since both the sides are relying upon the judgment of Hon'ble Supreme Court to further their respective position, it would be worthwhile to quote from that judgment as contained in Civil Appeal No. 6067 of 2011 to obviate any possibility of a misinterpretation. The said judgment is quoted below verbatim:-

"We are informed that out of five appellants, two of them have already retired while one of them has been promoted, qua the other two, there are couple of years of service left.

We are only concerned with the question of reversion of the appellants. We do not think that after a lapse of two decades, it is fair to revert them.

We, thus, direct that while leaving the question of law open, the direction not to revert the appellants would apply to all the appellants before us i.e. qua people who retired there will be no recovery and qua the two who are still on the same post, they would be permitted to continue in the same post till retirement.

The appeals stand disposed of".

9. A bare reading of the judgment would show that the specific direction of the Hon'ble Supreme Court that the applicants "would be permitted to continue in the same till retirement" is in the context of the threatened reversion of the applicant. We are not inclined to accept the interpretation that a consideration of the claim of the applicant for the post of Law Officer would amount to any contempt of the Hon'ble Supreme Court as submitted by the counsels for the respondents. Moreover, at this stage we are confining ourselves to limited alternative prayer made by the applicant that the respondents be directed to

allow the applicant to take part in the selection of Law Officer on provisional basis.

10. Having heard counsels for the parties at length and perused the relevant documents on record, we direct the respondents that applicant be permitted to take part in the selection process for the position of Law Officer (Group 'B') **strictly on provisional basis**. It is made clear that the result of the selection process qua the applicant would be subject to final outcome of this O.A. We emphatically state that at this stage we have examined neither the merits of the case nor the rights and claims the applicant is seeking by way of this O.A. These rights and claims shall be determined at a later stage when the OA comes up for substantive hearing and disposal. Needless to repeat that the interim relief herein provided will be subject to that final decision.

11. List this case on 19.03.2021. Meanwhile parties are at liberty to furnish additional documents, if any, in support of their respective claims.

(Tarun Shridhar)

(Justice Vijay Lakshmi)

Member (A)

Member (J)

Manish/-