



2026:DHC:2994



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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment pronounced on: 10.04.2026+ CONT.CAS(C) 180/2022 and CM APPLs.5392/2024, 45687/2024, 73205/2024

ASHUTOSH MISHRA

.....Petitioner

Through: Mr. Rahul Tyagi along with Ms. Priya Rai, Mr. Shubham Goel, Mr. Karan Grover, Mr. Sangeet Sibou, Ms. Laxmi Mr. Aniket Kumar Singh and Mr. Priyansh Raj Singh, Advocates.

versus

ANOOP KUMAR MENDIRATTA &amp; ORS. ....Respondents

Through: Mr. Ashish K. Dixit, CGSC along with Mr. Umar Hashmi, Mr. Gautam Yadav, Ms. Urmila Sharma, Ms. Deepika Kalra and Ms. Iqra Sheikh, Advocates for UOI.

**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT**

1. The present petition has been filed by the petitioner alleging wilful disobedience of the directions contained in the judgment/order dated 26.07.2021 passed in W.P.(C) 899/2021. The said order reads as under:-

*"1. Mr. Nidhesh Gupta, learned senior counsel, who appears on behalf of the petitioners, on instructions, says that, although, the petitioners, in the above-captioned matter, have assailed the judgment of the Tribunal dated 04.03.2020, they underwent the selection process [albeit, without prejudice to their rights and contentions], and have come out successful.*

*1.1 This position is not denied by Mr. R.V. Sinha, who appears on behalf of respondent no.1/UPSC as well as Mr. Ajay Dignaul, who appears on behalf of respondent no. 2/UOI.*



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2. Accordingly, the writ petition is disposed of with a direction that, since the petitioners have been declared successful, the concerned respondent [i.e. Union of India] will give effect to the result as impugned judgement cannot, now, stand in their way.

2.1. The net result will be that, the petitioners will stand appointed to the post of Joint Secretary and Legal Advisor in the Ministry of Law and Justice. Let the needful be done at the earliest, though not later than six weeks from the date of receipt of a copy of this order.

3. The writ petition is disposed of in the aforesaid terms. Consequently, pending applications shall also stand closed.”

2. It is the case of the petitioner that there has been wilful disobedience on the part of the respondents, with the directions contained in the aforesaid order, inasmuch as the petitioner’s appointment was not made within the time period prescribed therein.

3. In terms of the aforesaid order dated 26.07.2021, the appointment of the petitioner to the post of Joint Secretary and Legal Advisor in the Ministry of Law and Justice was to be made not later than six weeks from the date of the receipt of the copy of the said order.

4. It transpires that an offer of appointment was made to the petitioner on 08.11.2021. The same reads as follows:-

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Shashtri Bhawan, New Delhi,  
Dated the 8<sup>th</sup> November, 2021

To

Shri Ashutosh Mishra,  
N/6, Nilima Complex,  
Near Delta Square,  
Plot No.- 988, Baramunda,  
Bhubaneswar – 751003 (Odisha)  
[Email – amishraindia@gmail.com]

**Subject:-** Recruitment to the posts of Joint Secretary and Legal Adviser (Grade-I of Indian Legal Service) in the Level 14 of Pay Matrix in the Ministry of Law & Justice, Department of Legal Affairs.

Sir,

I am directed to say that on the recommendation of the Union Public Service Commission, you are hereby offered a temporary appointment to the post of Joint Secretary and Legal Adviser (Grade I of the Indian Legal Service) in the Level 14 of Pay Matrix in this Department, on the terms and conditions stipulated in Annexure. The place of posting will be informed along with the instructions for joining.



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2. The above offer is subject to the outcome of the following writ petitions filed by UPSC in the Hon'ble Delhi High Court:-

- (i) WP(C) No.6173/2020-UPSC vs. Dr. RJR Kasibhatla & Ors.
- (ii) WP(C) No.6216/2020-UPSC vs. Mukesh Kumar & Ors
- (iii) WP(C) No. 8098/2020-UPSC vs. Avinash Shukla & Ors
- (iv) WP(C) No. 8195/2020-UPSC vs. Raj Bahadur & Ors
- (v) WP(C) No. 8321/2020-UPSC vs. Krishna Mohan Arya & Ors
- (vi) WP(C) No. 8581/2020-UPSC vs. Neeraj Bhardwaj & Ors

3. You are requested to convey your acceptance in writing if the offer of appointment as per the enclosed terms and conditions is acceptable to you Intest by 26.11.2021. If no reply is received from you by the stipulated date, the offer of appointment will be treated as cancelled.

Yours faithfully,

Encl: As above.

(Varun Singh Chauhan)  
Under Secretary to the Govt. of India  
Phone: 2338 3634

5. In the aftermath thereof, the petitioner accepted the said offer *vide* communication dated 11.11.2021. The same reads as under:-

To

**ANNEXURE - P10**

Sri Varun Singh Chauhan  
Under Secretary to the Govt. of India  
Department of Legal Affairs  
Ministry of Law and Justice  
4<sup>th</sup> Floor, A-Wing  
Shastri Bhawan  
New Delhi- 110001.

Sub: - Recruitment to the posts of Joint Secretary and Legal Adviser (Grade-I of Indian Legal Service) in the Level 14 of Pay Matrix in the Ministry of Law and Justice, Department of Legal Affairs.

Sir,

This has reference to letter No. 2/1/2015-Admn.1 (LA) Part-1 dated 08.11.2021 of Ministry of Law and Justice, Department of Legal Affairs on the subject cited above. In this connection, I hereby accept the offer of appointment for the post of Joint Secretary and Legal Adviser (Grade-I of Indian Legal Service) in the Level 14 of Pay Matrix in the Ministry of Law and Justice, Department of Legal Affairs on the terms and conditions stipulated in the Annexure to the letter dated 08.11.2021 mentioned above.



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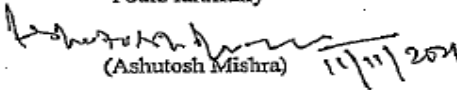
02. In this regard, it is pertinent that I and three other candidates recommended by UPSC for appointment to the subject post had filed W.P. (C) No. 899/2021(Vijay Kumar Sharma & Ors. Versus Union Public Service Commission & Ors.) before the Hon'ble High Court of Delhi inter alia challenging the common judgment/order dated 04.03.2020 passed by the Principal Bench of the Hon'ble Central Administrative Tribunal in OA No. 4354/2018 and other batch of matters and the Hon'ble High Court of Delhi has been pleased to dispose of the above W.P. (C) No. 899/2021 vide judgment/order dated 26/07/2021 with the following directions:

*"2. Accordingly, the writ petition is disposed of with a direction that, since the petitioners have been declared successful, the concerned respondent [i.e. Union of India] will give effect to the result as impugned judgement cannot, now, stand in their way.*

*2.1. The net result will be that, the petitioners will stand appointed to the post of Joint Secretary and Legal Advisor in the Ministry of Law and Justice. Let the needful be*

*done at the earliest, though not later than six weeks from the date of receipt of a copy of this order."*

Place:- Bhubaneswar  
Date:-11/11/2021

Yours faithfully  
  
(Ashutosh Mishra) 11/11/2021  
N/6, Nilima Complex,  
Near Delta Square,  
Plot No.:988, Baramunda,  
Bhubaneswar-751003, (Odisha).  
e-mail- [amishraindia@gmail.com](mailto:amishraindia@gmail.com)

6. Thereafter, certain additional documents were sought from the petitioner vide communication dated 17.12.2021 (Annexure P-11). The said communication reads as under:-

Sir/Madam,  
Please provide the following details at the earliest to facilitate this Department in preparing the ACC proposal:-

Service to which belongs	
(i) Post presently held on regular basis.	
(ii) Scale of pay	
(iii) Date since when holding the post	
Date of expiry of deputation/ tenure (if applicable)	

Regards,  
Admin. I LA  
Department of Legal Affairs  
New Delhi.



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7. For reasons not attributable to the petitioner, the appointment of the petitioner could not fructify.

8. In the circumstances, the present petition came to be filed on 07.02.2022. During the pendency of the present petition, a judgment/order dated 23.12.2022 was rendered by a Division Bench of this Court while disposing of CM APPL. 8388/2022 in W.P.(C) 899/2021. The same copiously deals with the controversy and the objection/s as regards the petitioner's appointment, and ultimately concludes as under:-

*“12. We agree with the submission made by learned counsel appearing on behalf of petitioner no.2 and 4 that the goalpost cannot be changed after the match has begun. In the present case, respondent no.2/Ministry of Law & Justice is trying to change the goalpost after the match has finished. Under no circumstances, respondent no.2 can go beyond the educational qualification and the experience prescribed in ILS Rules, and the requisition sent to UPSC, which forms basis of the selection of the five candidates, including the petitioner no.2 and 4.*

*13. It appears that the application under discussion has been moved by respondent no.2 only with a view to find an escape route in the contempt petition moved by petitioner no.2 and 4 as the order passed by this Court on 26.07.2021 has not been complied with till date irrespective of the fact that six weeks' time was granted to comply with the same and about 1 year and 5 months have already passed since the passing of the said order.*

*14. It is also pertinent to note here that the Competent Authority, i.e., Minister of Law & Justice, has already accepted the recommendation of UPSC and has directed for issuance of offers of appointment, which were duly issued on 08.11.2021 and the said offers were duly accepted by petitioner no.2 and 4 on 11.11.2021 and the only consequent step for respondent no.2 was to issue appointment letters, which, it has failed to issue for the reasons best known to its officials.”*

9. The SLP (C) No. 4410-4411/2023 came to be filed against the aforesaid judgment dated 23.12.2022, which was dismissed by the Supreme Court on 19.10.2023. In the aftermath thereof, an appointment letter dated 30.11.2023 was issued to the petitioner. The same reads as under:-



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Shastri Bhawan, New Delhi,  
Dated the 30<sup>th</sup> November, 2023

To,  
Shri Ashutosh Mishra,  
N/6, Nilima Complex, Near Delta Square,  
Plot No. - 988, Baramunda,  
Bhubaneswar – 751003 (Odisha)  
[Email – amishraindia@gmail.com]

**Subject:-** Offer of appointment to the post of Joint Secretary and Legal Adviser (Grade-I of Indian Legal Service) in the Level 14 of Pay Matrix in the Ministry of Law & Justice, Department of Legal Affairs.

Sir,  
With reference to the recommendation of Union Public Service Commission dated 24.02.2020 and the approval of Appointments Committee of the Cabinet (ACC) dated 30.11.2023, in compliance of order dated 26.07.2021 of Delhi High Court in WP (C) No. 899/2021 consequent to dismissal of SLP (C) No. 4410-4411/2023 vide order dated 19.10.2023, you are being offered an appointment to the post of Joint Secretary and Legal Adviser (Grade – I of the Legal Advisers' Service Cadre of the Indian Legal Service) in Level 14 of the Pay matrix, on direct recruitment basis w.e.f. date of assumption of charge of the post till the age of superannuation, or until further orders, whichever is earlier.

Yours faithfully,

(Rajeev Kumar)

Deputy Secretary to the Govt. of India  
Phone: 2338 4777

10. It is the case of the petitioner that even the said appointment letter is not consistent with the judgment/order dated 26.07.2021 passed in W.P.(C) 899/2021 [read with the judgment/order dated 23.12.2022 passed while disposing of CM APPL. 8388/2022 in W.P.(C) 899/2021], inasmuch as the said appointment has been purportedly made with prospective effect, viz. with effect from the date of assumption of charge and not with effect from the timeline referred to in the aforesaid judgment/order dated 26.07.2021.

11. It is the case of the petitioner that the post of Joint Secretary and Legal Advisor in the Department of Legal Affairs was advertised in the year 2018 for selection through direct recruitment. The selection process of the



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petitioner attained finality by the judgment/order dated 26.07.2021 passed in W.P.(C) 889/2021.

12. The respondents dragged the matter into further litigation and the appointment letter came to be issued only on 30.11.2023.

13. In the meantime, during the pendency of the said litigation, certain other candidates were promoted to the post, as a result of which the seniority of the petitioner was affected.

14. It is the case of the petitioner that the respondents have wilfully and deliberately defied the binding orders of this Court by not giving effect to the appointment of the petitioner from a date not later than six weeks from the date of receipt of a copy of the final judgment/order dated 26.07.2021.

15. It is the case of the petitioner that by issuing the offer of appointment dated 30.11.2023 to the petitioner, effective from a prospective date, the orders passed by this Court (as affirmed by the Supreme Court) have been sought to be circumvented.

16. On 14.01.2026, the respondents were directed to produce the relevant files and correspondence/s pertaining to the petitioner's appointment.

17. Again, *vide* order dated 18.02.2026, after hearing the respective counsel at length, this Court directed the respondents to produce, for the perusal of this Court, the proposal put forth to the ACC pursuant to D.O. letter No. A-60011/13/2021-Admn.(LA) dated 26.10.2023 and Letter No. A-60011/13/2021-Admn.(LA) dated 13.11.2023, forwarded by the Department of Legal Affairs to DoP&T with the approval of MOS (IC) for L&J.

18. A perusal of the relevant files produced by the Ministry of Law and Justice reveals that, in the note that was enclosed along with the



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communication dated 26.10.2023 addressed to DoPT, it was specifically sought as under :-

*“25. In view of the aforesaid factual matrix, it is requested to seek approval of the ACC on the following:-*

*(a). For compliance of the order dated 26.07.2021 of Hon'ble Delhi High Court in WP (C) No. 899/2021, approval of ACC may be sought to appoint Sh. Ashutosh Mishra and Sh. Sher Singh Dagar as Joint Secretary and legal Adviser w.e.f. 21.09.2021;*

*(b). The notional appointment of Sh. Ashutosh Mishra and Sh. Sher Singh Dagar as Joint Secretary and legal Adviser may be considered w.e.f. 21.09.2021 for the purpose of seniority and pay fixation. They would be treated as notionally appointed on 21.09.2021 i.e. in the normal course on the expiry of the six weeks as has been directed by the Hon'ble Delhi High Court in the judgment dated 26.07.2021 in WP (C) No. 899/2021. However, they would not be entitled for the back wages as decided by Hon'ble High Court of Delhi in its judgment dated 17.05.2017 in WP (C) No. 6205/2014 (relevant Para 49) (Praveen Srivastava & others vs. UPSC) and subsequently confirmed by the Hon'ble Supreme Court in its order 18.05.2018 in SLP (C) No. 24215/2017 (UPSC & others vs. Praveen Srivastava & I others).*

*26. Approval of the Hon'ble MoS (I/C) L&J has been obtained for Para 25 above.”*

19. Certain comments were made and clarification/s sought by the DoPT pursuant to the said communication. The same was responded to by the Ministry of Law *vide* Office Memorandum dated 13.11.2023. It was, *inter alia*, stated therein as under :-

*“So far as the effect of appointment of Sh. Ashutosh Mishra and Sh. Sher Singh Dagar to the post of JS&LA w.e.f. 21.09.2021 on the date of appointment of Sh. Vijay Kumar Sharma (who was one of the petitioners in the aforesaid WP (C) 899/2021) is concerned, it is to be noted that the directions of the Hon'ble Supreme Court and Hon'ble High Court, on which the present proposal is based, has to be implemented on or 30.11.2023 (as the next date of hearing in the contempt petition is 01.12.2023) irrespective of its effect on the service condition of Sh. Vijay Kumar Sharma, who superannuated on 30.09.2023 or any other person. At present this issue is not relevant to the context. However, according to the requirement, the issue can be analysed in accordance with the Rules and Law.”*



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20. *Vide* Office Memorandum dated 13.11.2023, issued by Ministry of Law and Justice, Department of Legal Affairs, it was further conveyed as under:

“2. ....

(a). *Comments on para-2:-*

*The proposal of the Department of Legal Affairs for appointment of Sh. Ashutosh Mishra and Sh. Sher Singh Dagar to the post of JS & LA w.e.f 21.09.2021 is not in any discretionary exercise of power of this department rather has been forwarded with the approval of Hon’ble Minister of State (I/C) for Law & Justice for full compliance of the order of Hon’ble High Court dated 26.07.2021 and 23.12.2022 and of Hon’ble Supreme Court dated 19.10.2023 and in order to avoid any breach of the said order(s) which may give rise to punitive action under ongoing contempt proceeding vide Cont. CAS (C) No. 180/2022 in the High Court of Delhi and is fixed for hearing on 01.12.2023.”*

21. As such, the proposal made by the Department of Legal Affairs was for the appointment of the petitioner with effect from 21.09.2021, in terms of the judgment/order dated 26.07.2021 and 23.12.2022 passed by this Court.

22. In the above background, this Court also deemed it necessary to peruse the relevant DoPT proposal on which the approval of ACC was obtained qua the petitioner’s appointment. The original file containing the said DoPT proposal was produced in the Court on 06.04.2026. A perusal of the same reveals that the ACC was required to give its approval on the basis of a note dated 15.11.2023 prepared by Secretary, ACC, which concludes as follows-

“11. **Point for consideration of the ACC:**

*In the light of the aforesaid background, the ACC may consider for appropriate orders, the proposal of the Department of Legal Affairs for the appointment of Shri Ashutosh Mishra and Shri Sher Singh Dagar to the posts of Joint Secretary & Legal Adviser (Grade I of Legal Advisers’ Service cadre of Indian Legal Service) in the Department of Legal Affairs on notional basis w.e.f 21.09.2021 and on actual basis w.e.f. the date of*

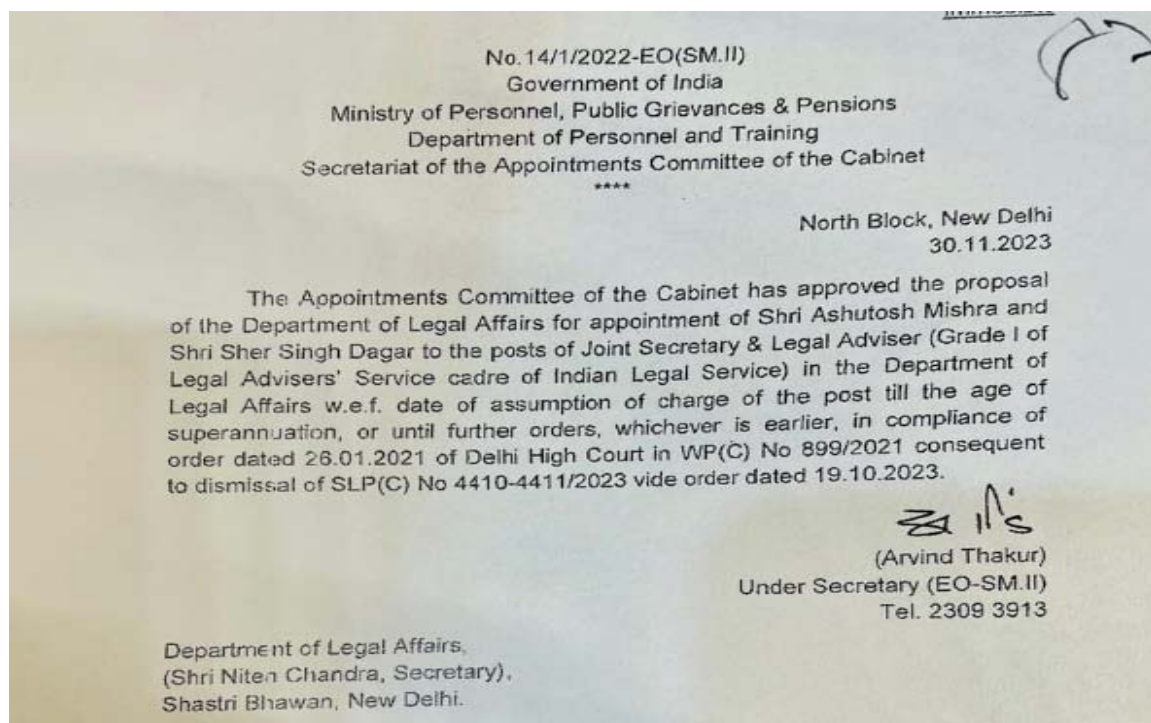


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assumption of charge of the post till the age of superannuation, or until further orders, whichever is earlier, without any back wages, in compliance of the order dated 26.07.2021 of Delhi High Court in WP (C) No. 899/2021 consequent to dismissal of SLP (C) No. 4410-4411/2023 vide order dated 19.10.2023.”

23. The following order dated 30.11.2023 came to be thereafter issued, pursuant to approval granted by the ACC, based on the aforesaid proposal :-



24. It is noticed that the aforesaid order records the approval by the ACC to the appointment of the petitioner to the post of Joint Secretary and Legal Advisor with effect from the date of assumption of charge of the post till the date of superannuation, or till further orders, whichever is earlier.

25. However, as noticed hereinabove, the note dated 15.11.2023 prepared by the Secretary, ACC (on the basis of which ACC accorded its approval) expressly records that the proposal was for the appointment of the petitioner on a 'notional basis' with effect from 21.09.2021 and on 'actual basis' with effect from the date of assumption of charge.



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26. Despite the same, the formal approval of the ACC, and the order dated 30.11.2023, omits to mention that the petitioner's notional appointment would be with effect from 21.09.2021. This is an omission which is required to be corrected. The same is evident not only from the aforementioned note prepared by the Secretary, ACC but also from the fact that the order dated 30.11.2023, itself specifically mentions that the appointment of the petitioner was being made in compliance with the judgment/order passed by this Court in W.P.(C) 889/2021 and consequent to the dismissal of SLP(C) No. 4410-4411/2023 *vide* order dated 19.10.2023. In terms thereof, it was required that the petitioner's appointment was to be made within the timeline referred to in the judgment/order dated 26.07.2021.

27. In the circumstances, although the petitioner's appointment was eventually made pursuant to the directions contained in the order/s passed by this Court, the same was not altogether in conformity with the said order/s. For the petitioner's appointment to be fully in accord with the said order/s, the same has to be made with effect from 21.09.2021, (as also mentioned in the note dated 15.11.2023 prepared by Secretary, ACC), even though the petitioner actually took charge on 21.12.2023.

28. Non-adherence on the part of the respondent/s, with the time frame set out in the judgment/order dated 26.07.2021, cannot possibly operate to the detriment to the petitioner. In such a situation, it is incumbent on this Court to pass consequential orders to ensure that the petitioner is not prejudiced on account of delayed compliance by the respondents. This is mandated in terms of the judgment of the Supreme Court in ***Balwantbhai Somabhai Bhandari v. Hiralal Somabhai***, (2023) 17 SCC 545. The relevant portion of the judgement is reproduced as under –



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*“81. A three-Judge Bench of this Court in SBI v. Vijay Mallya [SBI v. Vijay Mallya, (2024) 12 SCC 85 : 2022 SCC OnLine SC 826] , in clear terms said that apart from punishing the contemnor for his contumacious conduct, the majesty of law may demand that appropriate directions be issued by the Court so that any advantage secured as a result of such contumacious conduct is completely nullified. The approach may require the Court to issue directions either for reversal of the transactions in question by declaring said transactions to be void or passing appropriate directions to the authorities concerned to see that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or anyone claiming under him.*

xxx

xxx

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*89. Thus, although Section 52 of the 1882 Act does not render a transfer pendente lite void yet the court while exercising contempt jurisdiction may be justified to pass directions either for reversal of the transactions in question by declaring the said transactions to be void or proceed to pass appropriate directions to the authorities concerned to ensure that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or anyone claiming under him.*

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*117. We may summarise our final conclusion as under:....*

*117.3. Although the transfer of the suit property pendente lite may not be termed as void ab initio yet when the court is looking into such transfers in contempt proceedings the court can definitely declare such transactions to be void in order to maintain the majesty of law. Apart from punishing the contemnor, for his contumacious conduct, the majesty of law may demand that appropriate directions be issued by the court so that any advantage secured as a result of such contumacious conduct is completely nullified. This may include issue of directions either for reversal of the transactions by declaring such transactions to be void or passing appropriate directions to the authorities concerned to ensure that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or any one claiming under him.”*

29. In **Anil Kumar Shahi v. Prof. Ram Sevak Yadav**, (2008) 14 SCC 115, the Supreme Court has observed as under:-

*“50. It is by now well settled under the Act and under Article 129 of the Constitution of India that if it is alleged before this Court that a person has wilfully violated its order it can invoke its jurisdiction under the Act*



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*to enquire whether the allegation is true or not and if found to be true it can punish the offenders for having committed “civil contempt” and if need be, can pass consequential orders for enforcement of execution of the order, as the case may be, for violation of which, the proceeding for contempt was initiated. In other words, while exercising its power under the Act, it is not open to the Court to pass an order, which will materially add to or alter the order for alleged disobedience of which contempt jurisdiction was invoked. When the Court directs the authority to consider a matter in accordance with law, it means that the matter should be considered to the best of understanding by the authority and, therefore, a mere error of judgment with regard to the legal position cannot constitute contempt of Court. There is no wilful disobedience if best efforts are made to comply with the order.”*

30. Accordingly, it is directed that the appointment of petitioner shall notionally relate back to 21.09.2021. During the course of proceedings on 06.04.2026, learned counsel for the petitioner has acceded that the petitioner is not desirous of claiming any financial benefits with effect from the date of the said notional appointment. The said statement is taken on record.

31. The above redresses the grievance of the petitioner.

32. In the circumstances, subject to the respondents adhering to/acting in accordance with the aforesaid direction/s, this Court is not inclined to take action against the respondent/s for committing wilful disobedience of the order dated 26.07.2021 passed by this Court.

33. The petition is disposed of in the above terms. Pending applications also stand disposed of.

**SACHIN DATTA, J**

**APRIL 10, 2026**

*r, sv*