



2025:DHC:2984-DB



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

+ W.P.(C) 5281/2025 & CM APPL. 24070/2025

ANAND KATIYAR ORS & ORS.Petitioners

Through: Mr. Himanshu Gautam, Adv.

versus

UNION OF INDIA AND ORS & ORS.Respondents

Through: Mr. Adil Hussain Taqwi and
Mr. Shashank, Advs. for R-1

Mr. Shashank Dixit, CGSC with Mr. Kunal
Raj, Adv. for UOI

Mrs. Avnish Ahlawat, SC with Mr. Nitesh
Kumar Singh, Ms. Aliza Alam, Mr. Amitoj
Chadha and Mr. Mohnish Sehrawat, Advs.
for GNCTD/R-3 & R-5

Mr. Ravinder Agarwal and Mr. Vasu
Agarwal, Advs. for UPSC/R-4

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER (ORAL)

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24.04.2025

C. HARI SHANKAR, J.

1. The prayer in this writ petition read thus:

“In view of the facts and circumstances stated above, it is most respectfully prayed that this Hon’ble Court may graciously be pleased to:

a. Issue a writ in the nature of certiorari or any other appropriate writ, order or direction, quashing Advertisement No. 03/2025 dated 12.04.2025 issued by Respondent No. 4 (UPSC) to the extent it classifies the post of Assistant Public Prosecutor under Level-08 of Pay Scale as opposed to Pay Level-10 declared by GNCT of Delhi;

b. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the Respondents to immediately issue a revised notification classifying the post of Assistant Public Prosecutor under



Level 10 of Pay Scale and thereby under Group-A, in accordance with the applicable government orders and Cabinet decision no. 2199 dated 01.09.2015;

c. Issue a writ of Certiorari or any other appropriate writ, order, or directions thereby quashing the Directorate of Prosecution, GNCTD, recruitment Rules, 2021 and issue the revised rules to reflect the up-gradation of the post of Assistant Public Prosecutor from Group "B" to Group "A" and placement in Pay Level-10.

d. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the Respondents to revise and enhance the upper age limit to 35 years for the post of Assistant Public Prosecutor, in accordance with Office Memorandum dated 31.12.2010 issued by Government of India, Ministry of Personnel, PG & Pensions (Department of Personnel & Training);

e. Issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondents to relax the maximum age limit for recruitment to the post of Assistant Public Prosecutor to 35 years, in accordance with the cabinet decision No. 2199 dated 01.09.2015;

f. Direct the Respondents to take necessary consequential steps, including rectification of recruitment rules, age limits, pay level, service conditions, and promotional benefits in line with Group-A classification;

g. Pass any other or further orders as this Hon'ble Court may deem fit and appropriate in the interest of justice."

2. Learned Counsel for the respondents advanced a preliminary objection that this writ petition is not maintainable, as the remedy with the petitioners would lie before the Central Administrative Tribunal¹.

3. Mr. Himanshu Gautam, learned Counsel for the petitioners submits that the present petition was filed only because there is a challenge to recruitment rules.

¹ "the Tribunal", hereinafter



4. The 7-Judge Bench of the Supreme Court has clarified in *L. Chandra Kumar v UOI*² that every matter which falls within the scope of Section 19 of the Administrative Tribunals Act, 1985³ would have to be first filed before the Tribunal and that this Court cannot act as a Court of first instance in such case. On the aspect of whether the Tribunal can entertain a challenge to the validity of rules, the Supreme Court has clarified that the Tribunal is not only empowered to entertain a challenge to the validity of rules but is also empowered to entertain a challenge to the validity of parliamentary legislations, so long as the challenge falls within the scope of Section 19 of the Act of 1985. The only embargo in that regard is that the challenge is to a provision of the Act of 1985 itself as the Tribunal is a creature of the said statute.

5. As such, in view of the judgment of the Supreme Court in *L. Chandra Kumar*, this Court cannot entertain this writ petition as a Court of first instance.

6. The writ petition is accordingly dismissed with liberty to the petitioners to approach the Tribunal in accordance with law.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 24, 2025/aky

Click here to check corrigendum, if any

² (1997) 3 SCC 261

³ “the Act of 1985”, hereinafter