

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO 279 OF 2017

KUDRAT SANDHU

..Petitioner

VERSUS

UNION OF INDIA AND ANR

..Respondents

WITH

WRIT PETITION (CIVIL) NO 558 OF 2017

WITH

WRIT PETITION (CIVIL) NO 561 OF 2017

WITH

WRIT PETITION (CIVIL) NO 640 OF 2017

WITH

WRIT PETITION (CIVIL) NO 1016 OF 2017

WITH

WRIT PETITION (CIVIL) NO 788 OF 2017

WITH

WRIT PETITION (CIVIL) NO 925 OF 2017

WITH

WRIT PETITION (CIVIL) NO 1098 OF 2017

WITH

WRIT PETITION (CIVIL) NO 1129 OF 2017

WITH

WRIT PETITION (CIVIL) NO 33 OF 2018

WITH

WRIT PETITION (CIVIL) NO 205 OF 2018

WITH

WRIT PETITION (CIVIL) NO 467 OF 2018

WITH

TRANSFERRED CASE (CIVIL) NO 49 OF 2018

AND WITH

TRANSFERRED CASE (CIVIL) NO 51 OF 2018

ORDER

Dr D Y CHANDRACHUD, J

1 By an order dated 20 March 2018, we had clarified the previous order dated 9 February 2018. Clause (iii) of the clarifications is relevant and reads as follows:

“(iii) The tenure of the Chairperson and the Judicial/Administrative/Expert/Technical Members of all the

Tribunals shall be for a period of five years or the maximum age that was fixed/determined under the old Acts and Rules;"

On 16 July 2018, this Court issued the following directions in regard to the age of the superannuation of Member of the Income Tax Appellate Tribunal:

"At this juncture, we may note that there is some confusion with regard to the Income Tax Appellate Tribunal (ITAT) as regards the age of superannuation. We make it clear that the person selected as Member of the ITAT will continue till the age of 62 years and the person holding the post of President, shall continue till the age of 65 years."

CESTAT:

2 In IA 113281 of 2018, the applicant is an Additional District and Sessions Judge in the State of West Bengal, who has been selected as Member (Judicial) in the CESTAT. The notification of appointment of six officers who have been selected as Member (Judicial), including the applicant, stipulates that they shall hold office for a period of five years or till attaining the age of 62 years, whichever is earlier "in terms of the Hon'ble Supreme Court's order dated 20 March 2018". A member of the judicial service would have ordinarily continued until the date of superannuation in the state judicial service, subject to the service rules. It would be manifestly inappropriate to adopt an interpretation as a result of which, upon assuming office as Member (Judicial) in CESTAT the officer will have a tenure which will expire after five years, if it falls prior to attaining the age of 62 years. We, accordingly, are of the view that the clarification issued for the ITAT in the order dated 20 March 2018 needs to be reiterated in the case of the members of the CESTAT, which

we do. We clarify that a person selected as Member of the CESTAT will continue until the age of 62 years while a person holding the post of President shall continue until the age of 65 years.

AFT:

3 Members of the Armed Forces Tribunal shall hold office until the attainment of the age of 65 years. Chairpersons who have been former Judges of the Supreme Court shall hold office until the attainment of the age of 70 years.

CAT:

4 In the case of the Central Administrative Tribunal, we clarify that the old rules/provisions shall continue to apply.

5 We direct the Union government to file a status report before this Court within a period of two weeks setting out position with respect to each Tribunal, including the vacancies and the stage of the selection process. IA No.113281 of 2018 is disposed of accordingly.

.....CJI
[DIPAK MISRA]

.....J
[A M KHANWILKAR]

.....J
[Dr D Y CHANDRACHUD]

New Delhi;
August 21, 2018

ITEM NO.1505

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No. 279/2017

KUDRAT SANDHU

Petitioner

VERSUS

UNION OF INDIA & ANR.

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WITH

W.P.(C) No. 558/2017 (PIL-W)W.P.(C) No. 561/2017 (PIL-W)W.P.(C) No. 640/2017 (X)W.P.(C) No. 1016/2017 (PIL-W)W.P.(C) No. 788/2017 (X)W.P.(C) No. 925/2017 (PIL-W)W.P.(C) No. 1098/2017 (PIL-W)W.P.(C) No. 1129/2017 (PIL-W)W.P.(C) No. 33/2018 (PIL-W)W.P.(C) No. 205/2018 (X)W.P.(C) No. 467/2018 (X)T.C.(C) No. 49/2018 (XVI-A)T.C.(C) No. 51/2018 ()

Date : 21-08-2018 This matter was called on for pronouncement of order today.

For Petitioner

Mr. Rupesh Kumar, AOR
Ms. Neelam Sharma, Adv.
Mr. Pravesh Bahuguna, Adv.
Mr. Rajeev Sharma, Adv.

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Mr. Viresh B. Saharya, Adv.

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For Respondents

Ms. S.S. Shamsbery, Adv.
Ms. Rukmini Bobde, Adv.
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Mr. Mukesh Kumar Maroria, AOR

Mr. Ajay Bansal, Adv.
Mr. Gaurav Yadava, Adv.
Ms. Veena Bansal, Adv.

Mr. Ashok Mathur, AOR
Mrs. Anil Katiyar, AOR
Mr. Sonal Jain, AOR

Hon'ble Dr. Justice D.Y. Chandrachud pronounced the order of the Bench comprising Hon'ble the Chief Justice of India, Hon'ble Mr. Justice A.M. Khanwilkar and His Lordship.

In terms of the signed reportable order, I.A. No. 113281/2018 in Writ Petition (C) No. 279/2017 is disposed of.

I.A. No. 105561/2018 in Writ Petition (C) No. 279/2017 also stands disposed of.

(Deepak Guglani)
Court Master

(H.S. Parasher)
Assistant Registrar

(signed reportable order is placed on the file)