

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	20.02.2023		<p>WPSB No. 65 of 2023 <u>Sri Vipin Sanghi, C.J.</u> <u>Sri Alok Kumar Verma, J.</u></p> <p>Mr. Ravi Gupta, learned Senior Counsel assisted by Mr. M.C. Pant and Mr. Vikshit Arora, learned counsels for the petitioner.</p> <p>Mr. S.S. Chauhan, learned Deputy Advocate General for the State-respondent no.1.</p> <p>Mr. Shobhit Saharia, learned counsel for respondent no.2.</p> <p>Issue notice. Learned counsels appear and accept notice on behalf of the respondents.</p> <p>Counter-affidavit be filed within six weeks.</p> <p>Rejoinder-affidavit before the next date.</p> <p><u>IA No.01 of 2023</u></p> <p>The petitioner has preferred this application to seek stay of the effect and operation of the impugned notifications dated 06.09.2019 and 12.09.2019, and to direct the respondents to allow the petitioner to continue in service till the disposal of the writ petition.</p> <p><i>Vide</i> notification dated 06.09.2019, issued by the Government of Uttarakhand in exercise of Fundamental Rule 56(C) of the Financial Handbook, Volume 2, Parts II to IV, read with Rule 25A of the Uttarakhand Higher Judicial Services Rules, 2004, as amended, the Governor ordered in public interest that the petitioner shall retire from 30th September, 2019.</p> <p>By the corrigendum dated 12.09.2019, the order dated 06.09.2019 was amended to substitute the words "<i>under suspension</i>" with the words "<i>Chairman, Permanent Lok Adalat, Dehradun.</i>"</p>

The petitioner challenged his compulsory retirement by preferring a writ petition before the Supreme Court under Article 32 of the Constitution of India, being Writ Petition (Civil) No.1208 of 2019. The Supreme Court, it appears, granted the *status quo* in respect of the Notification dated 06.09.2019 read with corrigendum dated 12.09.2019. The aforesaid writ petition was listed before the Supreme Court on 31.01.2023, and the Supreme Court passed the following order:-

"We do not find that this is a fit case for invoking our jurisdiction under Article 32 of the Constitution of India. The writ petition is, therefore, dismissed, with liberty to the petitioner to approach the jurisdictional High Court.

However, taking into consideration the order of status quo, granted by this Court on 27.09.2019, it is directed that the same shall continue to operate for a period of four weeks from today, so as to enable the petitioner to approach the High Court.

Pending application(s), if any, shall stand disposed of."

Now the petitioner has preferred the present writ petition in pursuance of the order passed by the Supreme Court, challenging his compulsory retirement.

The submission of Mr. Gupta, learned Senior Counsel for the petitioner is that since the petitioner has been enjoying order of *status quo*, and his compulsory retirement has not taken effect for the last three and a half years, the interim protection granted to the petitioner should continue during the pendency of this writ petition.

We have heard Mr. Gupta, learned Senior Counsel, and we are not inclined to grant any *ex parte* stay of the compulsory retirement of the petitioner at this stage. The grant of said relief would tantamount to granting the final relief at the interim stage even without calling for the counter-affidavits of the respondents.

On the other hand, even if the compulsory

retirement of the petitioner takes effect and he were to eventually succeed in these proceedings, *status quo ante* can be restored by reinstating him and granting him back wages etc.

For the aforesaid reasons, we are not inclined to grant any interim protection to the petitioner at this stage.

Issue notice to the respondents on this application, by all permitted modes, including electronically and *dasti*.

Steps to be taken within a week.

Reply to the interim application be also filed within six weeks.

List on 13.07.2023.

On the next date, the original record shall be kept available for the perusal of the Court by the State.

(Alok Kumar Verma, J.)
20.02.2023

(Vipin Sanghi, C.J.)
20.02.2023

NISHANT