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

+ W.P.(C) 3509/2026

KAUSHALENDRA KUMAR SINGHPetitioner
Through: Mr. Karan Bharihoke and Mr.
Prakhar Srivastav, Advocate

versus

UNION OF INDIA & ANR.Respondents
Through: Mr. Vardhman Kaushik for Mr.
Nishant Gautam, CGSC
Mr Vinay Kaushik Government Pleader

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER

% **18.03.2026**

CM APPL. 16923/2026 (Exemption)

1. Allowed subject to all just exceptions.
2. The application stands disposed of.

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3. This writ petition raises a very elementary issue. The petitioner claims that, if one were to reckon seniority amongst the Members of the National Company Law Tribunal¹ on the basis of the date of joining, he is the senior most member after the former Chairperson, who retired on 16 March 2026. The petitioner has placed reliance on

¹ "NCLT" hereinafter



Section 415 read with Section 407(c) of the Companies Act, 2013, which reads as under:

“407. Definitions.—In this Chapter, unless the context otherwise requires,—

(c) “Member” means a member, whether Judicial or Technical of the Tribunal or the Appellate Tribunal and includes the President or the Chairperson, as the case may be;”

“415. Acting President and Chairperson of Tribunal or Appellate Tribunal .—

(1) In the event of the occurrence of any vacancy in the office of the President or the Chairperson by reason of his death, resignation or otherwise, the senior-most Member shall act as the President or the Chairperson, as the case may be, until the date on which a new President or Chairperson appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.”

4. Mr. Bharihoke, who appears on behalf of the petitioner, submits that there are no separate rules governing *inter se* seniority amongst members of the Tribunal and that, therefore, seniority would necessarily have to be reckoned on the basis of date of joining. He submits that Respondent 2, who has now been made Acting Chairperson of the Tribunal consequent on the demitting of office by the Chairperson, has joined service as Member of the Tribunal two weeks after his client, i.e. the petitioner.

5. If that is so, the petitioner may be senior to Respondent 2 and would have a *prima facie* case in his favour.

6. Nonetheless, as Respondent 2 has also to be given an opportunity to enter appearance and the matter is listed before the



Court for the first time, and keeping in mind the fact that Respondent 2 has already assumed office and we are dealing with the office of the Chairperson of the Tribunal, we do not deem it appropriate to grant an *ex parte* order in the terms sought in the stay application, as that would amount to allowing the writ petition. However, we clarify that the assumption of the office of Acting Chairperson, and continuance therein, by Respondent 2, would be subject to the outcome of this writ petition.

7. Given the important of the issue, we deem it appropriate to issue emergent notice to the respondents.

8. Mr. Vardhman Kaushik, who is present in court, and is in the office of the Mr. Nishant Gautam, Standing Counsel, has graciously agreed to accept notice on behalf of the Respondent 1.

9. We request Mr. Gautam to assist the Court in this matter. In case the UOI desires to be represented by any other counsel, they would make arrangements forthwith.

10. Let counter affidavit, if any, be positively filed within one week with an advance copy to learned counsel for the petitioner, who may file rejoinder thereto within five days thereof.

11. Renotify on 1 April 2026 for disposal in the Supplementary List.

12. We also direct the UOI to ensure service of the copy of this



petition on Respondent 2, who may also file counter-affidavit, if he so chooses, within 1 week with 5 days for rejoinder.

13. We make it clear that no extension of time would be granted for the purpose.

14. Renotify on 1 April 2026 in the Supplementary List.

CM APPL. 16922/2026 (interim relief)

15. Issue notice.

16. Mr. Vardhman Kaushik accept notice on behalf of Respondent 1.

17. We also direct the UOI to ensure service of the copy of this petition on Respondent 2.

18. Let reply be positively filed within one week with an advance copy to learned counsel for the petitioner, who may file rejoinder thereto within five days thereof.

19. Renotify on 1 April 2026 in the Supplementary List.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

MARCH 18, 2026/yg